Abstract Proceedings of the Travancore Legislative Council.

The Council met in the Dewan's room, Public Offices, at 12 noon, on Monday, the 28th October 1918/12th Thulam 1094.

Present.

DEWAN BAHADUR M. KRISHNAN NAIR ESQ., B. A. & B. L., DEWAN.....*Presiding.*

V. Subba Aiyar Esq., B. A. & B. L.
N. Subrahmanya Aiyar Esq., M. A.
R. Mahadeva Aiyar Esq., B. A.
Rao Bahadur K. V. Rengaswami Aiyangar Esq., M. A.
N. Raman Pillai Esq., B. A.
I. C. Chacko Esq., B. A., B. SC.
K. Parameswaran Pillai Esq., B. A. & B. L.
Paul Daniel Esq., M. A. & L. T.
A. Govinda Menon Esq., B. A.
M. Subrahmanya Pillai Esq.
K. A. Krishna Aiyangar Esq., B. A. & B. L.
R. Gopala Pillai Esq., B. A. & B. L.
John Mackie Esq.

K. Narayanan Pandalay Esq., B. A. & B. L.....*Secretary.*

THE MUNICIPAL BILL.

Mr. Subba Aiyar presented the report of the Select Committee on the Municipal Bill, and moved that the report and the Bill be taken up for consideration at once.

Seconded by Mr. Mahadeva Aiyar.

Carried.

SECTION 3.

Mr. Subba Aiyar moved that the words "privy, urinal" be inserted between the words "stable" and "roofed enclosure" in line 2 of sub-section (2).

Seconded by Mr. Krishna Aiyangar.

Carried.

Mr. Gopala Pillai moved that the words "or under Regulation II of 1069 or Regulation III of 1076" be added at the end of sub-section (14).

Mr. Subba Aiyar accepted the amendment. But the Council resolved to recast the sub-section as follows :—

"The Municipal Council means the body of persons constituted for each Municipality under this Regulation, or under Regulation II of 1069 or Regulation III of 1076."

Mr. Subba Aiyar moved that the words "or part of the same" be inserted between the words "building" and "in" in line 4 of sub-section (17).

Seconded by Mr. Mahadeva Aiyar.

Carried.

Mr. Subba Aiyar moved that the word "land" be substituted for the words "public street" in line 3 of sub-section (35).

Seconded by Mr. Mahadeva Aiyar.

Carried.

SECTION 4.

Mr. Krishna Aiyangar moved that the words "two months" be substituted for the words "six weeks" in line 4 of sub-section (2).

Mr. Subba Aiyar accepted the amendment, and it was carried.

SECTION 5.

Mr. Govinda Menon, in moving that the words "on the recommendation of a Municipal Council made at a meeting specially convened for that purpose" be inserted between the words "may" and "by" in line 1 of sub-section (1), said :—

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"The provision contained in this sub-section is the same as that found in sub-section (1) of Section 5 of the existing Regulation. Whatever might have been the justification for inserting the provision in that Regulation, I think there is no need for retaining it in its original form in the present Bill. The Municipal Councils are the best judges to decide whether or not it would be advisable to abolish a Municipality or to alter its limits. It is therefore only just and proper that Government should not take action in such matters except on the initiative of the Municipal Council concerned. Further, it is bad policy to take away a right once conceded. That this is so will be seen from the fact that no provision like this is found in the Municipal Acts of some of the advanced provinces of British India—notably, Bombay. Section 9 A of the Bengal Act has been framed on the lines suggested by the proposed amendment. In Bombay, a different provision has been adopted, but it is far better than the one in the Bill under consideration. Assuredly, the people of this country are not inferior to the people of Bengal in point of capacity to administer Municipal affairs. I therefore beg to move that the amendment proposed by me be accepted."

Mr. Gopala Pillai:—

"I beg to second the motion. I may say that Government should not have the power of completely annihilating a Municipal Council after once it has been formed and that, if an area is to be deprived of the privileges of a Municipal Council, it should be only when the Municipal Council itself says that that area does not require a Municipality. If a Municipal Council were to misbehave, there is provision in the Bill to supersede the Council and make other arrangements. In view of this and also of the fact that the present tendency is to increase and not to reduce the number of Municipalities, I submit that this provision is unnecessary."

Mr. Subba Aiyar, in opposing the motion, said:—

"The power to constitute a Municipality and define its limits vests under Section 4 in the Government. The power to cancel or modify any Notification constituting or defining the limits of any Municipality should therefore naturally vest in the Government. This is recognised by the Mover himself. What he suggests is that the Government should exercise the power on the recommendation of the Municipal Council. The Section as it stands does not prevent the Municipality from taking the initiative in the matter. The object of the amendment seems to be that the Government can cancel or modify a Notification only on the recommendation of the Council. This I cannot subscribe to. The cancellation of a Notification constituting a Municipality or making any modification of the Municipal limits will primarily affect the inhabitants thereof. It is they that are likely to be benefited or prejudiced by the Notification. The Section as it stands makes ample provision to safeguard their interests by making it obligatory on the Government to hear their objections. Before cancelling or modifying a Notification, the Government should be satisfied as to the necessity for the same. The information necessitating an enquiry may be conveyed to the Government either by the Municipal Council, or by the inhabitants, or otherwise. It may be on the complaint of the inhabitants of a locality and after any enquiry made thereon or otherwise that the Government are satisfied that any local area cannot afford to have a Municipality and that the burden imposed upon the people far exceeds the benefits derived from the Municipality. It may also be that a particular portion of a Municipal area may not be benefited at all by a Municipality, though, in common with the rest of the area, the inhabitants of that portion have to pay all the taxes. Is it suggested that, though the Government are satisfied about the necessity for cancelling or modifying a Notification, they should not take any action in the matter unless the same is recommended by the Municipality? I need hardly say that a Municipality may not and probably could not for various reasons take the initiative. Making a recommendation by the Municipal Council a condition precedent for interference by Government may frustrate the object with which the Section is enacted. At the same time it has to be conceded that, before any Notification constituting a Municipality is cancelled and the Council dissolved, it is but desirable that the Municipal Council should be allowed an opportunity to express its views and explanation if any. The Section makes provision for the same. For the above reasons, I beg to oppose the amendment."

Mr. Parameswaran Pillai:—

"This Section consists of three important provisions, *viz*, (1) the power of Government to dissolve a Council once established; (2) their power to exclude an area from the Municipal limits; (3) to include an area within such limits. So far as the last two provisions are concerned, I cannot see any reason why action there-under should not be taken by Government with the advice of the Municipal Council, or why the initiative in the matter should not be taken by the Council in the first instance. As regards the first, that is, the power of Government to dissolve a Municipal Council once established, I for my part certainly object to it on the ground that it is a right granted to a particular locality for the purpose of administering its Municipal affairs and that this right, once granted, should not be taken away unless of course really there is reason, which should be shown, that it should be taken away. The question may arise whether a Council will at all recommend that it should be dissolved. Of course, it may or it may not. We cannot say one way or the other. I cannot contemplate a case in which there will be any necessity for dissolving a Municipal Council

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primarily because, if there should be any mis-management in the affairs of the Council, or if the Members become incompetent to act or unable to carry on the business of the Council, it would be open to the Government to supersede the Council by constituting another Council. After having heard the learned Mover, I am not at all satisfied that any case will arise in which mismanagement by a Council could not be removed by superseding it by the appointment or election of new Members. Before constituting a Municipal Council, the Government will bestow their very best consideration upon the matter and they will be satisfied that a particular locality is fit for having a Municipality. Having been satisfied that the locality is fit for local self-government, why should Government take away that right, unless the motion comes from the locality itself or from the Municipal Council? I am against this provision as a whole, but as an alternative, I support strongly the amendment proposed by Mr. Govinda Menon."

Mr. Krishna Aiyangar:—

"As a Member of the Select Committee that considered the Bill, I would just like to say a few words with reference to this Section before the amendment is put to the vote. I recognise that it is an extreme step that a Municipality once brought into existence should be extinguished by the Government. I believe that such a step will be taken only under extreme circumstances. In this connection, the question will naturally arise, in whose interests will the Municipality be proposed to be got rid of permanently? My answer is that it must be in the interests of the inhabitants of the locality. To my mind, it appears far more important that Government should protect the interests of the inhabitants more than the fancied interest or the prestige of the Municipal Council concerned. The Municipal Council exists for the benefit of the inhabitants, and if the best interests of the inhabitants demand the permanent extinction of the Municipality, there is not much scope for controversy. That the Municipality should be the sole determining body in the matter seems to me rather not conducive to the accomplishment of the object with which the institution was brought into existence. It certainly stands against human nature that a Municipal corporation or a Government institution should vote for its being dropped out of existence. If it comes to a question between the interests of the inhabitants and the reputation of a Municipal Council, I would certainly sacrifice the reputation of the Municipal Council. It is certainly essential that a local authority should be consulted by the Government before any definite action is taken on all the three points mentioned in the Section. The necessary safeguards might be put in in sub-section (3)."

Mr. Subrahmanya Pillai :—

"I quite agree with Mr. Krishna Aiyangar in his views."

Mr. Govinda Menon :—

"There is certainly no difference between the interests of the Municipality and those of the inhabitants of the local area. As I said already, the Bengal District Municipalities Act provides that Government should take action in these matters only on the recommendation of the Municipalities themselves, and so there could be no harm in having the same provision in our statute. In regard to the alteration of the Municipal limits, I can point out one instance which has come to my knowledge while I was a Member of the Parur Committee. The Committee proposed to include certain area within the town limits, and they also proposed at the same time to exclude a certain area from such limits. While the Government sanctioned the one, they disallowed the other. The result was that the inhabitants of the area sought to be excluded, which is something like three square miles, had to pay Municipal taxes without any benefit to them. If my amendment be accepted, such a condition of things will not arise. I therefore strongly urge the acceptance of my amendment."

The amendment was put to the vote and lost.

Mr. Krishna Aiyangar moved that the words "Notification" and "issued" be substituted for the words "order" and "passed" in lines 8 and 9, respectively, of sub-section (3).

Seconded by Mr. Daniel.

Carried.

SECTION 8.

Mr. Govinda Menon, in moving that the words "in which the circumstances which led to its issue should be stated" be inserted between the words "Notification" and "except" in lines 4 and 5 of sub-section (1), said :—

"This Section gives the Government an autocratic power to do anything with the Municipalities. If a Municipal Council were to err or if Government do not favour a particular Council, they can curtail its powers by the use of this provision. They can withdraw the operation of certain provisions of the Bill in respect of certain Municipalties, and can in the place of the provisions withdrawn supply their own rules for the guidance of the Councils. My amendment requires the Government to state their reasons whenever they exercise such powers. This is, I think, reasonable, and I accordingly beg to move the amendment."

Seconded by Mr. Gopala Pillai.

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Mr. Subba Aiyar:—

"Some Municipalities are not so advanced as to exercise all the powers under this Bill. Some of the Committees suggested a classification of the Municipalities into major and minor. This was thought undesirable. Under this Section, such of the provisions of the Regulation as are unsuited to any Municipality may be made inapplicable to that Municipality. I do not think that the circumstances which led to the issue of the Notification need be stated. It may not be possible to say more than that a particular provision is unsuited to any particular locality. My friend may safely trust to the good sense of the Government to exercise their power under the Section only in exceptional cases and when there is absolute necessity. I therefore beg to oppose the amendment."

The amendment was put to the vote and lost.

SECTION 10, SUB-SECTION (1).

Mr. Govinda Menon, in moving that the words "four-fifths" and "one-fifth" be substituted for the words "one-half" and "one-fourth" in lines 2 and 4, respectively, of Proviso (i) to Clause (*b*), said:—

"Even in this Bill, which has been drafted something like two decades after the passing of the Regulation which is now in force, it is a pity that the number of Official Members of a Municipality has not been decreased. If we review Municipal legislation in other parts, not only in British India but in other parts of the world, the tendency is to increase the non-official element and to curtail the official element in Municipal administration. Even here, I understand, that some years ago, there were in a Committee seven Non-official Members out of a total of ten, and that all these seven were elected, although afterwards, for the purpose of representing minorities, some two or three seats were taken away from the electorate. Even in the neighbouring province of Madras, the strength of elected Non-official Members in some Municipalities is three-fourths of the whole number. Of course, the official element is necessary during the initial stage of a Municipality, but this should be reduced after some time when there is a sufficient number of people in a locality who are able to conduct the administration of Municipal affairs. This is the generally accepted policy everywhere. That this is so will be seen from the recently published "Reforms Report" which in a certain para refers to the grant of autonomy to local bodies. I submit that a Bill framed at such a time should certainly not give preponderance to the official element in the constitution of a Municipal body. The interests of the minorities may be safeguarded by nomination to the remaining one-fifth of the seats."

Seconded by Mr. Gopala Pillai.

Mr. Subba Aiyar:—

"Under the existing Regulation, a Committee is to consist of not less than eight and not more than sixteen Members exclusive of the President. Not more than one-half of these may be officials. The minimum of elected Members is one-fourth. Though the maximum for officials is one-half and the minimum for elected non-officials is one-fourth, it will be found from the Almanac for 1918 that the number of Official Members is in the majority of cases less than a third, so that the object of the Government is, as far as possible, to reduce the official element. Almost all the Committees, except Trivandrum, suggested that the minimum of elected Members should be raised to one-half and the maximum of Official Members reduced to one-fourth. The Trivandrum Committee suggested that two-thirds should be elected, though it had no objection to the official element being fixed at one-fourth. The Conference of the T. I. C's. held in 1092 adopted a resolution to the effect that the minimum of elected Members should be fixed at one-half. This was adopted by the Select Committee. As the Section stands at present, there will be a substantial majority of Non-officials, the number being not less than three-fourths of the total number of Members. I do not think it possible to go further. My friend referred to the Madras District Municipalities Act. He ignored one circumstance, *viz*, that Official Members may be elected there. There is no rule prohibiting officials standing for election. As the amendment stood in the agenda, four-fifths will be elected and one-fifth will be officials. He does not seem to make any provision for the representation of minorities who do not stand any chance of being returned at elections. This certainly will not be acceptable to Government. My friend evidently saw the defect in the amendment and has therefore now conceded that one-fifth may consist of nominated Members, both officials and non-officials. The proportion of one-fifth is certainly too low for both officials and non-officials put together. The interests of the unrepresented minorities have to be safeguarded, and without introducing the vexed question of communal representation in the Bill, provision is made to enable the Government to nominate a few non-officials. For the above reasons, I beg to oppose the amendment.'

Mr. Parameswaran Pillai:—

"In the discussion of this provision, we are much handicapped by the fact that no distinction is made in the Bill between the major and minor Municipalities. It appears to me that, in legislating for a major Municipality, provision may be made much more liberally than in the case of the minor Municipalities. In order to obviate this difficulty, Section 8 has been introduced in this Bill. But the provisions of this Section are intended primarily to affect both the major and minor Municipalities. Therefore the discussion rather becomes more or

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less vexed so far as these provisions are concerned.' However, as the Government have power to except from the operation of a provision, I may take it that the provisions of this Section primarily refer to those Municipalities which Government will not except from its operation. In such a case, I do not see why the amendment proposed by Mr. Menon should not be accepted. The only objection that has been taken is that it may be necessary for the Government to exercise the power of nomination for representing unrepresented minorities. I grant that there may be occasion for it sometimes, but it appears to me that the suffrage has been made sufficiently low that in most of the important Municipalities there may not be any need for the exercise of this power by the Government. Particularly in the case of all important Towns, almost all the important communities are well represented in the electorate and I do not see that any particular community or interest has got any peculiar or undue advantage over others. Therefore, taking into consideration the present condition of the important Towns, the power of nomination which the Government wish to take may be reduced to its minimum. There is no reason why the Government should insist that a certain proportion of the Council should consist of officials. If the Government find the need for representing the unrepresented minorities, they can nominate a suitable number of non-official gentlemen. But it seems to me that the cases for the exercise of such a power will be very rare in the case of important Municipalities in the State. I therefore support the amendment proposed by Mr. Govinda Menon."

Mr. Daniel :—

"In fixing the proportion between the Non-official and Official Members of the Municipal Councils, the Government should reserve power to represent the minorities."

Mr. Mackie :—"Government should have power to have the minorities represented in these Councils."

The amendment was put to the vote and lost.

Mr. Parameswaran Pillai moved that the following be inserted as Proviso (ii) in Clause. (*b*) of sub-section (1), the existing Proviso (ii) being re-numbered as Proviso (iii) :—

"Provided that the function of Official Members shall be merely advisory and shall not extend to voting" ; and he spoke as follows :—

"This amendment was sent in by me at the request of some of the T. I. C. Members. It appears to me that it is the object of the Government that, as far as possible, the administration of Municipalities should vest primarily and entirely in the Non-official Members. Of course, in certain cases, official element is necessary, such as the Health Officer, Medical men and experts in other directions, particularly in view of the fact that more extended powers are proposed to be given to the Municipal Councils. Such experts may be necessary for the purpose of guiding those bodies. My amendment proposes that whenever such experts and other Government servants become Members of the Council, they should not have the right of voting or influencing the vote. They should advise and guide the Council in regard to matters in which their opinion may be necessary. The object of this amendment is to minimise the official control of these Municipal Councils as far as possible and to vest their administration entirely in the hands of the Non-official Members, which I believe is the object of the Government in introducing this measure."

Seconded by Mr. Govinda Menon.

Mr. Subba Aiyar, in opposing the motion, said :—

"That it may be necessary to have Official Members in the Municipal Council and that they should be allowed to take part in the discussion of the Council are admitted by my friend the mover and the seconder of the amendment. The most important question then to be considered is whether these Official Members should be in a position to vote. The Non-officials will always be a majority, so that it will not be possible for the Official Members under any circumstances to out-vote the Non-official Members. Once these Officials are appointed as Members, it is not desirable to make any distinction between them and the Non-official Members in the matter of voting. So far as Municipal administration in Travancore is concerned, I do not think it necessary to make such a distinction in the present state of affairs."

The amendment was put to the vote and lost.

Mr. Subrahmanya Pillai moved that the words "on two successive occasions" be inserted between the words "fail" and "to elect" in lines 2 and 3 of Proviso (ii) to Clause (*b*) of sub-section (1).

Seconded by Mr. Govinda Menon.

Mr. Subba Aiyar, in opposing the motion, said :—

"I may at once say that the object of the provision is not to take away the right of election conferred upon the people and give the power to Government all at once. It says that if the inhabitants of a locality fail to elect, it shall be lawful for the Government to nominate a Non-official. The Government may do so or may not do so. There is no doubt that in the existing Regulation there is a provision that if the inhabitants fail to elect on two successive

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occasions, the Government may nominate a Member. But this is subject to the qualifying clause 'whom the Government may decline to appoint.' Under the existing Regulation, although election is allowed, strictly speaking, there is no right of election. It is only a sort of recommendation. Until the election is approved by the Government, it is not valid. It is not so under the present Bill. Once a candidate is elected, the approval of Government is not necessary; so that here the election is a valid election. In this case, if there is a failure to elect, the Bill provides that Government *may* nominate some person. It does not make it obligatory upon Government to do so. In such cases the Government may be trusted not to act arbitrarily".

The amendment was put to the vote and lost.

SECTION 11.

Mr. Krishna Aiyangar proposed that the language of Clause (*a*) should be made clear so as to remove any doubt as to the period when a candidate for election should have completed twenty one years of age.

After some discussion, the Council resolved to leave the question to be settled by the Rules that may be framed for the purpose.

Mr. Gopala Pillai, in moving that Clause (*b*) be deleted, spoke as follows:—

"One of the reasons given by the Select Committee in their report for not extending the right of Councillorship to women is that there is no strong demand for it. To this my reply is that it is not statesmanship to say that rights and privileges will be granted only when there is a constant demand and agitation for the same. The T. I. C's, the Legislative Council and the Popular Assembly are not the result of agitation. They are the blessings of a Gracious Sovereign showered on his people. The existence of the Clause in question is, I should submit, also an impediment to progress. We have now, as Presidents of the T. I. C's., Sub-Registrars, Headmasters and Sub-Assistant Surgeons. There are in the service of the State women holding more responsible offices. There are ladies in the Medical Department trained in the western science of medicine and sanitation, whose services ought to be sought in the matter of sanitation, etc. This Clause prohibits them from rendering public service. Again, it also levels against women the charge that they are unfit to act on terms of equality with men, and as such it is of a demoralising nature and should not find a place in the Statute Book of the State. Modern conditions of society do not warrant the perpetuation of the disability of women. Another argument that has been advanced against women on this point is that women may not go in for the place of Councillors. There may be ever so many depressed classes who may not be able to send in persons fit to be Councillors. Are we to mention in the Bill categorically that such and such communities should be shut out from these Councils? When the Royal mandate calls upon the women of the land to contribute their *mite* to the war and when they have cheerfully sent their sons to fight for the cause of freedom, it is not fair to say that the freedom which is sought to be enthroned on high and worshipped should not be approached by women. Therefore, in the interests of civilisation, progress and good morals, the deletion of this Clause is necessary."

Mr. Govinda Menon, in seconding the amendment, said:—

"Even in the most conservative countries we hear nowadays of the franchise being extended to women. Eminent men like Lord Morley have advocated this. I read today in the papers a telegram stating that in England, the House of Commons by a large majority have passed a resolution to the effect that a Bill should be brought to enable women to become Members of Parliament. We do not demand such a broad franchise. It is only a matter affecting local areas. I do not think that Government should act ungracefully in this matter, especially as it concerns ladies."

Mr. Subba Aiyar:—

"I beg to oppose the amendment. Mr. Menon referred to women in England being allowed seats in the Parliament. In England, till recently, no woman had the right of being returned as a Councillor either in the Borough or County Council. This disability was removed only recently by an Act. But even now, better opinion seems to be that she cannot be a voter, because that provision has not been altered, so that even in a country where the social conditions and manners are far more advanced, we find that women were not allowed seats till recently. If we go to British India where the customs and manners of the people are the same as in Travancore, we find there is not one Province or a single Native State which has given the privileges of Councillorship in a Municipality to women. No doubt, it will be conceded by all that Travancore is far ahead of other parts of India so far as literacy is concerned, and that is probably why in Travancore women are given the right of voting whether in the case of Municipal Councils or in the case of returning representatives to the Assembly. Even here, may I ask my friends, how many women have appeared at the polling station to vote for a Member? What we have to take into consideration is not the theoretical aspect of the matter but the practical aspect of it. The question is whether our women have so far advanced as to move freely with men so as to be fit for being councillors in a Municipal Council and take active part in the business of the Council? The Select Committee, after bestowing their anxious consideration over all the aspects of the question, thought that the time is not ripe for conferring this right upon women. I therefore beg to oppose the amendment."

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The amendment was put to the vote and lost.

Mr. Subba Aiyar moved that the following be inserted as Clause (*b*), the subsequent Clauses being re-numbered :—

"Who is of unsound mind, deaf, mute or a leper; or"

The Council accepted the amendment.

Mr. Govinda Menon moved that the following be substituted for Clause (*c*) :—

"Who, having been sentenced by a Criminal Court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months or to transportation, such sentence not having been subsequently reversed or quashed."

Seconded by Mr. Gopala Pillai.

Mr. Subba Aiyar, in opposing the motion, said :—

"The proposed amendment seems to have been taken from the Bombay District Municipalities Act. The Bill follows the wording in the existing Regulation and the Punjab and Madras District Municipalities Acts. The object of the provision is to make the 'position of a Municipal Councillor one of dignity and one which shall carry with it privileges and duties of a high character.' The Bill therefore proposes to make the conviction or order of a Criminal Court which implies a defect of character a disqualification for Councillorship. It may be suggested that the wording is vague. All the same it has been in existence for over 20 years and no difficulty seems to have arisen till now. A reading of all the Indian Acts will show that while the Punjab and Madras District Municipalities Acts adopt the wording in the Bill, some would restrict the disqualification to sentence of imprisonment or whipping in cases where the offence is punishable with imprisonment for a term exceeding six months; some would restrict it to imprisonment or whipping for a non-bailable offence; while yet others make a conviction for a non-bailable offence a disqualification irrespective of the nature of the sentence. Thus then, some of the Acts would base the disqualification upon the nature of the sentence whatever may be the offence; some would base it upon the nature of the offence and of the sentence, while others upon the nature of the offence irrespective of the sentence. There does not therefore seem to be any uniformity in the wording. To my mind, the disqualification should be based upon a defect of character if it is implied in a conviction for a particular offence or an order of a Criminal Court. Here we are on safe ground. I do not see why a man convicted of theft and sentenced to pay a fine should not be disqualified and this will be the result if the amendment were accepted. It may be suggested that, if so, it will be better to make a conviction for a non-bailable offence a disqualification, whatever may be the nature of the sentence, as such a conviction may generally imply a defect of character. This will however ignore one set of cases where though there may be no conviction, yet there may be an order of a Criminal Court binding over a person to keep the peace or for good behaviour under the Criminal Procedure Code. Is it intended that such persons should be eligible for Councillorship? On the whole, I think it is better to leave the Clause as it is. I therefore beg to oppose the amendment."

The amendment was put to the vote and lost.

Mr. Gopala Pillai moved that Clause (*d*) of Section 11 be deleted, and said :—

"The whole provision is very vague. It is for the electorate to choose a man quite irrespective of the fact that he has been once a Government servant and that he has been dismissed, and that discretion should not be interfered with. We are not in a position to know under what circumstances Government would dismiss a servant and declare him ineligible. The electorate is the best judge in such cases. The Bombay, Calcutta and the Madras City Municipalities Acts do not include this as a disqualification. I submit that, when the most advanced Provinces do not include this as a disqualification, there is no necessity for its being incorporated in the Bill."

Seconded by Mr. Govinda Menon.

Mr. Subba Aiyar:—

"I beg to oppose the amendment. As I have already said, character is the first essential requisite for a seat in a Municipal Council. I think that in such cases the Government will have very good evidence enabling them to decide as to whether dismissal involves defect of character. For example, a man may be punished with dismissal for not sending a return, say to the Account Office, and yet there is nothing so far as his character is concerned. So it is for the Government to decide whether a particular dismissal implies defect of character on the part of the man dismissed."

The motion was put to the vote and lost.

Mr. Govinda Menon moved that Clause (*d*) be deleted, and the following be substituted:—

"Who, having been dismissed from Government service, such dismissal having been notified as debarring him from re-employment."

The motion fell through as it was not seconded.

Mr. Krishna Aiyangar moved that Clause (*e*) be recast as follows :—

"Who, if a Vakil, has been dismissed by the High Court for unprofessional conduct."

Mr. Subba Aiyar accepted the amendment, and it was carried.

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SECTION 12.

Mr. Gopala Pillai moved that the following be inserted as Section 12, renumbering the subsequent Sections :—

"If the validity of any election is disputed, any person in the Municipal election roll may, at any time within fifteen days after the result of the election has been declared in Our Government Gazette, apply to the District Judge within whose jurisdiction the Municipality is situate.

If the District Judge, after making such enquiries as he deems necessary, finds that the election was a valid election, he shall confirm the result of the election. If he finds that the election was not a valid one, he shall set it aside. The order of the District Judge shall be conclusive. If the election is set aside by the District Judge, proceedings for filling up the vacancy shall be taken under the provisions of this Regulation."

Seconded by Mr. Parameswaran Pillai.

Mr. Subba Aiyar, in opposing the motion, said :—

"The principle that has been followed in the drafting of this Bill is that, as far as possible, questions concerning election are left to be regulated by the Rules to be framed by the Government. Section 254 (1) (*a*) (vi) says that Rules will be framed prescribing the authority for determining objections regarding election and the conduct of such enquiry. There is no doubt that Government will take particular care to entrust as far as possible Civil Courts with the power to go into the question and decide it. Beyond that, I do not think it necessary to detail all the provisions of the Rules in the Section itself. I do not think that any difficulty will arise by making these provisions in the Rules. Besides, the proposed amendment does not contain all the provisions connected with election. It would not therefore be proper to insert this provision alone in the Bill and leave others to be provided for by the Rules."

Mr. Gopala Pillai :—

"There is nothing in the Bill to show that it is to the Civil Court that the appeal should go. It may be any tribunal. I think specific mention must be made in the Bill itself as to the tribunal which is to decide the question. We find such mention in Section 33 of the Bombay Act."

The amendment was put to the vote and lost.

Mr. Krishna Aiyangar moved that the word "vote" be substituted for the word "name" in line 4 of sub-section (2) of the existing Section 12.

Mr. Subba Aiyar accepted the amendment, and it was carried.

The Council adjourned at 2-20 P. M. for lunch, and re-assembled at 3 P. M.

SECTION 15.

Mr. Parameswaran Pillai moved that the following be substituted for sub-section (1).

"Subject to the provisions of Section 11, every Municipal Council shall elect its President, who shall be a Non-official, in accordance with such rules and conditions as may be prescribed by Our Government."

In support of his proposal he spoke as follows :—

"I beg to move that Clause (1) of Section 15 be deleted and that in its place the following be substituted : —"Subject to the provisions of Section 11, every Municipal Council shall elect its own President, who shall be a Non-official, in accordance with such rules and conditions as may be prescribed by Our Government." To some, this amendment may appear to be radical and perhaps even revolutionary. But, as I submitted in discussing a former Section, having regard to Section 8 of this Bill, I hope to be able to show that the amendment I propose offends neither against expediency nor against practicability. In proposing this amendment, I have not ignored Clause (*b*) of sub-section (1) of this Section which says 'that the Government may direct the Municipal Councillors to elect their President in accordance with such rules and conditions as may be prescribed by Our Government.' The existence of this Clause affords additional support to my amendment, in as much as I take it that, by this sub-clause, Government in a manner admit that time has come for directing some at least of the Municipal Councils to elect their Chairmen. This matter, Sir, has been engaging public attention for some time past. At the 11th Session of the Popular Assembly, both my friends Mr. A. Govinda Menon and Mr. C. Sankara Menon (Member, Quilon T. I. C.) pleaded for non-official elected Presidents. Mr. Sankara Menon said 'that though the Government have recognised the principle or policy of appointing non-official Presidents to the Committees, they were, he regretted to observe, rather slow and even reluctant to put the policy into practice.' He therefore strongly urged on the Government to allow non-official Presidents at least to the Committees in the five older Towns and also to confer on the Committees the privilege of electing their Presidents. He suggested that an amendment to secure the above object should be made in the Regulation. At the 12th Session, another Member of the same Committee said:—'If non-official Presidents and Vice-Presidents were appointed for the Committees, much better work could be done by them. The official Presidents on account of their multifarious other duties found little time to spend on the administration of the Town. Even with their utmost desire in that direction, they were unable to attend all the meetings of the Committee. Further, being officers of the State, they were overscrupulous in the expenditure of the Committee's funds in the interest of the Town, so as to avoid the chance of the Committees requisitioning Government help when their balance was spent out.' Again, at the 13th Session, the Member for the Mavelikara T. I. C. said:—'The official Presidents were not able to spare much time for the work connected with the Committees. Oftentimes, they found it difficult even to attend the meetings of the Committee owing to heavy pressure of work

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in other directions. On the other hand, a non-official President would be able to devote a good portion of his time in going about the Town and ascertaining its requirements.' The two main arguments of these gentlemen are, in the first place, that the official Presidents who are hampered by other, and perhaps in their, estimation more important, official duties, are enable to bestow as much attention to the Committee's work as is desirable in the interests of the efficiency of that work, and secondly, that, being persons more directly responsible to the Government than to the Committees, they are not likely to be so liberal as a non-official Chairman might be in the expenditure of funds even when they are absolutely necessary for the benefit of the Committees. Though from my personal experience I can fully sympathise with the sentiments and opinions thus expressed, and they are in themselves valid and sufficient reasons for a change in legislation, they are not the sole or even the paramount consideration in a matter like this. In the first place, I consider that the work of the Committees would be more efficiently carried out by elected non-official Presidents than by nominated official or non-official Presidents, as they would be more responsible to the Committees than a nominated President, for, their position depends upon the goodwill of the Council. It will also ensure that better co-operation and cordiality of feeling between the President and the Members so essential for the success of these institutions. Another and more important reason is that these institutions are the schools for the training of the people in self-government, and therefore the more autonomous they are, the more chances there are of the people becoming fit for the larger responsibilities of civic life. I shall here quote the words of the report on 'Indian Reforms' recently published, pertaining to this matter:—'It is by taking part in the management of local affairs that aptitude for handling the problems of Government will most readily be acquired. This applies to those who administer, but even more to those who judge of the administration. Among the clever men who come to the front in provincial politics, there will be some who will address themselves without more difficulty and indeed with more interest and zeal to the problems of Government, than to those of Municipal or District Board administration. But the unskilled elector, who has hitherto concerned himself neither with one nor the other, can learn to judge of things afar off only by accustoming himself first of things near at hand. This is why it is of the utmost importance to the constitutional progress of the country that every effort should be made in local bodies to extend the franchise, to arouse interest in elections and to develop local committees, so that education in citizenship may as far as possible be extended, and everywhere begun in a practical manner. If our proposals for changes on the higher levels are to be a success, *there must be not hesitation or faltering* about changes in local bodies. Responsible institutions will not be stably rooted until they become broad-based, and far-Sighted Indian politicians will find no field into which their energies can be more profitably thrown than in developing the boroughs and communes of their country.' It is this tendency to acquire the aptitude for handling the problems of Government in those who are engaged in the administration of local bodies 'and the possible extension of the education in citizenship in the unskilled elector' that induce me to say that there should be no hesitation or faltering about changes in local bodies. Efficiency to my mind is not the only or even the principal test in a matter like this. I am prepared for some failure in the beginning, but the prospect of the failure in a few cases should not certainly deter us from taking a step in the right direction. We may make mistakes, but, if corrected with promptness and sympathy, the very mistakes we make will teach us how to avoid them in future. Nor am I satisfied that the administration of Municipalities by Government servants has been an unqualified success. The administration of Municipalties cannot become worse. The notable success of the administration of the Alleppey Town Improvement Committee has been adduced by many as an argument in favour of the extension of the privilege. This affords to my mind no test at all. That a man, who, by education, training, intelligence, experience and culture, is fitted to administer a State, carries on the work of a Town Improvement Committee with efficiency is no compliment to him, nor does it afford any test of the success of the experiment. I may say the same thing of the success which has so far attended the Village Panchayat Courts. Men who, by their training and experience, are fitted to occupy with distinction the posts of high Judicial officers are entrusted with the work of the Village Panchayat Courts, and we are congratulating ourselves that the result is satisfactory. This is not enough. We must take the average man, with average educational attainments, capacity and character, and entrust him with the work and see how under his guidance these institutions will flourish. Then and then alone will the object in view be achieved. I fully trust that the result will fully justify the experiment and that, even otherwise, if in a few cases it may not be attended with the success you may expect, or the efficiency of some of the Councils may to some extent be impaired, that should on no account deter us from taking the right step if we are satisfied that it is the right step to take. The Government of Travancore have declared it their policy to have as far as possible non-official Presidents for the T. I. C's. In his address to the Popular Assembly, at the 12th Session, the Dewan said:—'The administration of the Town of Alleppey under its non-official President was highly satisfactory. The question of appointing non-official Presidents to some other Towns is engaging the attention of Government.' At the 13th Session, the Government repeated the same assurance:—'The working of the Alleppey Committee under its non-official President continued to be satisfactory. The Government have under consideration the question of appointment of non-official Presidents in some other Towns also.' In spite of this repeated declaration of policy, it has been realised in very few Committees. The ostensible reason is the paucity of suitable men. This is because, while in the case of official Presidents no standard of qualification is required, in the case of non-officials, impossible standards are expected or demanded. I am credibly informed

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that at one of the Conferences of the T. I. C. Members held in Trivandrum, the Dewan said 'that the Government wished to appoint non-official Presidents in some Committees but that there was only one man fit for it and he could not accept it.' This only illustrates what I said. Let us however examine the official prodigies that occupy the place in the several Municipalities. There are now 19 T. I. C's., of which 18 were presided over by officials at the beginning of 1918. Two are presided over by Sub-Registrars, one by a Hospital Assistant, dignified by the name of Sub-Assistant Surgeon, one by a Stationary Magistrate, six by Tahsildars, one by the Headmaster of a H. G. English School, three by qualified Medical officers, and four by Peishkars, two being presided over by the same Peishkar. Certainly, from among the non-officials, men superior to Sub-Registrars, Hospital Assistants, Stationary Magistrates and Tahsildars may be secured in the localities where they preside. In six of these places we have District Courts where you can get gentlemen of culture and education to take up this work. Ten out of the remaining places have got each a Munsiff's Court, and therefore a fairly well-educated bar, and I can see no difficulty in finding suitable men who will hold the office with credit and efficiency. I do not mean that we must always turn to the legal profession for suitable men. I am quite sure that in almost every place you will be able to pick out a few ryots of position, influence and education, who may be trusted with the responsibility. It is to these people that we must look for help and co-operation in this respect. For illustration, I may ask, why should the Tahsildar of Attingal be preferred to Mr. Harihara Iyer (Non-official Member)? Why should the Medical officer of Haripad be preferred to Mr. S. Subbaraya Aiyar or Mr. Udaya Varma Thampuran, or the Sub-Registrar of Kuzhithura be preferred to Mr. K. Raman Thampi? Why should the Tahsildar of Shencottah be preferred to Mr. Vira Bhadra Karayalar or Mr. S. P. Kuttalalingom Pillai, or again the Stationary Magistrate of Kayankulam to Mr. E. N. Kesava Pillai, etc? The fact is that Government are unwilling. The matter therefore cannot be left to them for this reason, and for the reason also that even a nominated Non-official is a substitute for an elected Non-official just no more than good Government is a substitute for self-government. The Government of India have laid it down as their policy that as far as possible Municipalities and Rural Boards should have elected Chairmen :—'It should also be followed by an extension of the system of elected Chairmen. The Decentralisation Committee thought that Municipal Chairmen should be ordinarily elected non-officials and that, if a nominated Chairman was required, an official should be selected. If there are special reasons against the election of a non-official Chairman, an official might be elected provided that he is elected by a majority of non-official votes,' etc. In the Bengal, North Western Provinces and the Punjab Acts also, provision is made for this. While the Punjab is no model for us in point of education or general advancement, the learned Mover has thought it fit to follow the Punjab Act on the ground that it was on the basis of the old Punjab Act that T. I. C's. were constituted, forgetting that one mistake does not justify another. Now, even here, he has not been consistent, for, curiously enough, he seems to follow the Act only as a model for all reactionary provisions, so that the present Bill is not based upon the Act of any particular place, but is a collection of the most retrograde provisions of every Municipal Act in India. That must be changed. The Punjab is no model for us. I understand that many T. I. C's. have recommended that power should be given to the Municipalities in existence and those to be hereafter created to elect their own non-official Chairmen. I am fully persuaded that there is no Council which will not properly exercise the privilege if it is granted to it, but wherever the Government think that that power cannot be given to the Committees, they have got the power under Section 8 to withhold the operation of this provision in regard to them. As I have already said, Government themselves have admitted by Clause (*b*) of this Section that time has come when they might safely entrust this power to the Councils. What I contend for is that it should not be in the discretion of Government either to grant or withhold it, but it must be given as a matter of right."

Seconded by Mr. Gopala Pillai.

Mr. Subba Aiyar, in opposing the motion, said:—

"The Section, as it stands, enables Government to empower any Municipal Council to elect its own President. My friend himself has admitted that Government have appointed non-official Presidents in some of the Municipal Councils. There can be no doubt that, as far as possible, Government will be willing to withdraw official Presidents and put in non-official Presidents. Beyond that, it is not possible to lay down a statutory provision to the effect that every Municipal Council shall have a non-official President elected by the Council. It will be admitted that most of the Councils, at any rate, except the few referred to by my friend, may not be in a position to have elected Presidents. It cannot be said that all the Committees in the State are so advanced as to have non-official Presidents. The Government may be trusted to decide whether a particular Municipality should have a non-official President, and if so, whether it should be by election. I do dot think it necessary to reply in detail to the other remarks of my friend Mr. Parameswaran Pillai, as I consider most of them to be irrelevant to the matter under discussion. I therefore beg to oppose the amendment."

The amendment was put to the vote and lost.

Mr. Gopala Pillai, in moving that the whole of sub-section (3) be deleted, said:—

"Once the power of electing Presidents is given to a Municipal Council, that should not be taken away. The words 'public interests' used in the Section are very vague and Government can take shelter under them for doing any act. I would put forth an extreme case to illustrate my point. Suppose the day after the election, the Government think that the election

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should be cancelled and that nomination should be resorted to; this provision can be exercised only after the expiry of the term, that is, he may be allowed to continue for three years, regardless of the evil consequences that are supposed to follow. The expression 'public interests' is therefore merely a myth. The provision that I seek to delete is, I submit, arbitrary and inconsistent."

Seconded by Mr. Govinda Menon.

Mr. Parameswaran Pillai:—

"In view of the wording of sub-clause (*b*), this provision is, I think, superfluous and unnecessary, because sub-section (3) says that Government should resort to the appointment of the President only when it becomes vacant, so that, if the President who has been elected by the direction of the Government is found to be unfit or inefficient or unable to carry on the work of the Municipality, Government do not take power to remove him, but they have to suffer him to continue for the period for which he has been appointed. Beyond that period, the Government have not taken power to empower the Municipal Council to elect a President. As I understand it, in each case, direction will be made by Government to elect a Non-official or Official as President. Therefore, whenever a direction is made, of course the Government will consider as to whether it is expedient or whether the direction once given was properly utilised and whether the person elected was competent. All these considerations will weigh with the Government in issuing the direction. Therefore, it appears to me that Clause (*b*) is quite sufficient as it stands to meet the cases mentioned in sub-section (3). Thus, sub-section (3) becomes superfluous and unnecessary unless the Government wish to remove a President even during his term of office though he is not unfit or inefficient."

Mr. Subba Aiyar:—

"When once the Government think of conferring the power of electing the President upon a Municipal Council, Government will be very slow to withdraw that power. If it so happen that successive Presidents are found incompetent to administer the affairs of the Municipality, Government should, in order to restore confidence in the public in matters of Municipal administration, step in and see that a competent President is appointed. It is only with a view to arm the Government with power in extreme cases that this provision is made."

Mr. Gopala Pillai:—

"Incompetency is not the only one case that is contemplated by the Section. The expression "public interests" may cover any other thing also. It may not be fair to say that the whole Municipal area cannot find one man to carry on the work of the Council. It is rather going too much to say that. Nowhere has it been laid down that because a President has been found incompetent no President should be elected at all. This would be the natural consequence of the argument of my friend Mr. Subba Aiyar."

Mr. Gopala Pillai's amendment was put to the vote and lost.

Mr. Krishna Aiyangar moved that the word "filled" be substituted for the word "appointed" in the last line of sub-section (3).

The Council accepted the amendment.

Mr. Govinda Menon moved that the following be substituted for sub-section (4):—

"Every Municipal Council may elect one of its elected Councillors as Vice-President."

Mr. Krishna Aiyangar:—"I beg to second the amendment with a small amendment. I would have the sub-section as follows:—

"The Municipal Council may, subject to such Rules as may be prescribed by Our Government, elect one of its Councillors as Vice-President."

Mr. Subba Aiyar accepted the amendment as modified by Mr. Krishna Aiyangar, and it was carried.

SECTION 16.

Mr. Gopala Pillai moved that the word "official" in line 3 of sub-section (1) be deleted.

The motion fell through as it was not seconded.

Mr. Govinda Menon moved that the words "where the President is appointed by Government or any elected Councillor authorised thereto by the Council" be inserted between the words "as declared by Our Government" and "shall assume charge" in lines 4 and 5 of sub-section (1).

Seconded by Mr. Gopala Pillai.

The motion was opposed by Mr. Subba Aiyar, and it was put to the vote and lost.

Mr. Subrahmanya Aiyar proposed that the words "and failing him on" be inserted after the word "any" in line 3 of sub-section (2), the word "or" in the same line being deleted.

Mr. Subba Aiyar accepted the amendment, and it was carried.

SECTION 18.

Mr. Govinda Menon moved that sub-section (1) be deleted and that the following be substituted :—

"Any President of a Municipality may resign by notifying his intention to Government or to the Municipal Council, according as he is appointed by Government or elected by the

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Municipal Council, and, on such resignation being accepted, shall be deemed to have vacated his office."

Seconded by Mr. Parameswaran Pillai.

Mr. Subba Aiyar opposed the motion, and the amendment was put to the vote and lost.

Mr. Gopala Pillai moved that the words "as such" be added after the word "seat" at the end of sub-section (2).

Seconded by Mr. Daniel.

After some discussion, the Council resolved to substitute the word "office" for the word "seat" in line 4.

The Council adjourned at 4-45 P. M., and met again the next day at 12 noon. All the Members who attended the previous day, excepting Mr. Krishna Aiyangar, were present. Mr.John Kuriyan was also present. The Council resumed the consideration of the remaining Sections of the Bill.

SECTION 19.

Mr. Govinda Menon moved that the following be inserted as Clauses (*a*) (i) and (*a*) (ii) of sub-section (1), the existing Clauses (*a*) & (*d*) being deleted :—

"19 (1) (*a*) (i). Any President or Councillor appointed or nominated by Government may be removed by Government, and shall be so removed if his removal is recommended by a resolution of the Municipality in favour of which not less than three-fourths of the number of Councillors of the Municipality have voted at a special meeting.

19 (1) (*a*) (ii). The elected President or Vice-President of a Municipal Council may be removed by the Municipal Council, if his removal is supported by a resolution of the Council in favour of which not less than three-fourths of the number of Councillors of the Municipality have voted at a special meeting."

In support of his amendment, Mr. Govinda Menon said :—

"According to the Bill, Government have power to remove the President, etc., only for specific reasons. If my amendment be accepted, there will be no restrictions for the Government to remove these persons. This is not a novel suggestion, as the provision is found in the British Indian enactments. This power is sometimes necessary for the smooth working of the Municipality on occasions."

Mr. Gopala Pillai, in seconding the motion, said :—

"I submit that the amendment may be split into two parts. In the one, Government are given power to remove the President, Councillor, etc., appointed or nominated by them. The second portion deals with cases where there is a majority in favour of their removal. The necessary safe-guard is provided by the fact that the recommendation has to proceed from the resolution of the Council at a special meeting, where there will be an opportunity for threshing out the question and where the necessity for the passing of the resolution will also be considered. There have been cases where the Members have passed resolutions of want of confidence in the President and the Government have naturally taken action upon such resolutions. This is only codifying the policy of Government, and as such, there cannot be any objection. Government are given power in the case of nominated Members and the Government are also required to respect the opinion of the majority of the Councillors."

Mr. Subba Aiyar :—

"I beg to oppose the amendment. If the amendment is accepted, it will lead to this. The President, Vice-President or a Councillor has to be removed, not for a mistake he has done or any disgraceful conduct he is guilty of, but because he is not in terms with a certain number of his colleagues in the Council. That will naturally create a split in the Council, one party siding with the President and another party with those who are against him, and as a result, he will have to be removed in case three-fourths of the Members happen to turn against him. This will be nullifying the effect of nomination made by Government. The appointment of every nominated President may be questioned by the Council and a resolution passed to the effect that the President should be removed. It may be that after working with the Council he may find that he cannot get on and that he may resign his appointment, but that is no reason why the Government should remove him. That will necessarily have a bad effect upon the honest discharge of duties by the individual concerned."

Mr. Govinda Menon :—

"I have only to point out that the principle involved in the amendment has been recognised by all the City Municipal Acts of British India."

President :—"It is a question of practical importance and not of principle. The acceptance of the amendment will, I am sure, create friction and disputes, and will lead to dangerous results."

The amendment was put to the vote and lost.

Mr. Govinda Menon moved that the following be substituted for Clause (*b*) of sub-section (1) :—

"Any President, Vice-President, or Councillor, who has absented himself for more than three consecutive months from the meeting of the Council, shall have vacated his seat in the

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Council, but Government may, in the case of a President or Councillor appointed or nominated by them, and the Municipal Council shall, if a resolution at a special meeting is passed to that effect, in the case of an elected President, Vice-President or Councillor, restore such President, Vice-President or Councillor to his seat on the Committee."

In moving the above amendment, Mr. Govinda Menon said :—

"This is a provision recognised in all the City Municipalities Acts. This is a most harmless provision and it does not involve any inconvenience or any practical difficulty; nor does it involve any principle. It is only a matter of convenience and it saves a good deal of trouble on the part of the Member who has to vacate his seat. I therefore beg to move that the amendment be accepted."

Mr. Gopala Pillai, in seconding the motion, said :—

"Even under this Bill, the absence of the Councillor is to be taken into consideration. The same is the case under the existing Regulation also. He now continues as a Member, until he is in a position to explain his absence. According to the amendment, if he is absent consecutively for three months, he loses his office or seat, and then, if he is in a position to explain his absence satisfactorily, his absence may be condoned and his office may be revived. There is not after all any hardship caused by this. I therefore beg to second the amendment proposed by Mr. Govinda Menon."

Mr. Subba Aiyar:—

"It may be that no hardship will result by accepting this amendment. But the question is whether it is necessary to insert it in the Bill. Under the existing Regulation, if a Member absents himself from the Council for three consecutive months, and then if he is able to satisfy the Government that his absence was due to a reasonable cause, he does not vacate his seat, but may continue to hold his office. What the amendment wants is that *ipso facto* mere absence for three months should make the seat become vacant, and if after vacating it, the holder satisfies the Government that his absence was due to reasonable cause, Government may appoint him. In other words, the question is whether a man should forfeit his appointment before his explanation is taken as to the cause of his absence and then be re-appointed. There does not appear to be any harm in allowing the man to remain in office until he satisfies the Government as to the cause of his absence. In the Legislative Council Regulation it is stated that if any Member absents for three meetings without any satisfactory reason, thereafter, he is liable to be removed from membership. He does not *ipso facto* vacate his seat, so that Government may condone the absence if they are satisfied. Therefore there is no real necessity for accepting the amendment. The only question involved in the amendment is whether the man should vacate his seat *before* he is heard or *after* he is heard. I think it undesirable to punish a man before he offers his explanation. I therefore beg to oppose the amendment."

Mr. Govinda Menon :—

"The amendment follows the British Indian City Municipalities Acts, and the arguments urged by my friend Mr. Subba Aiyar must have struck the framers of those Acts."

The amendment was put to the vote and lost.

Mr. Parameswaran Pillai moved that Clause (*c*) of sub-section (1) be deleted.

The motion fell through, as it was not seconded.

Mr. Govinda Menon moved that the following be substituted for Clause (*c*) of sub-section (1):—

"The Government, if they think fit, may, on the recommendation of a Municipality, remove any President, Vice-President or Councillor, appointed, nominated or elected under this Regulation, if such President, Vice-President or Councillor has been guilty of gross misconduct in the discharge of his duties or of any disgraceful conduct or has become incapable of performing his duties of President, Vice-President or Councillor."

Seconded by Mr. Gopala Pillai.

The motion was opposed by Mr. Subba Aiyar on the ground that the existing Clauses was wide enough to cover all cases of misconduct.

The amendment was put to the vote and lost.

SECTION 20.

Mr. Govinda Menon moved that the words "Vice-President or Members of any special Committee appointed under this Regulation" be inserted between "President" and "shall" in line 1.

The motion fell through as it was not seconded.

SECTION 26.

Mr. Govinda Menon moved that the following be inserted as sub-section (4), re-numbering the existing sub-sections (4) and (5) as sub-sections (5) and (6) :—

"The order in which any business that may be transacted or any proposition that may be discussed at a meeting shall be brought forward, shall be determined by the presiding authority, who, in case it is proposed by any Councillor to give priority to any particular item of such business or to any particular proposition, shall put the proposal to the meeting and be guided by the majority of votes for or against the proposal?"

Seconded by Mr. Subrahmanya Pillai.

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President "Is it not a matter to be provided for by the Rules?"

Mr. Govinda Menon :—"Several matters have been provided in the Section itself."

Mr. Subba Aiyar :—

"The Section only provides for important matters. All the others may be provided in the bye-laws to be framed by the Councils under Section 33. I believe that even without a bye-law, the matter referred to is a right which could be exercised by any President. There are ever so many matters which are not included in the Section. So, this may also be left to be provided by the bye-laws. I therefore beg to oppose the amendment."

Mr. Govinda Menon :—

"I do not want to curtail the authority of the President. The Councils must have the right to enforce their resolution."

The amendment was put to the vote and lost.

Mr. Govinda Menon moved that the following be added as sub-section (6).

"If it shall appear to the Municipality that the presence of any officer of the District or Division belonging to the Public Works, Educational, Sanitary or Medical Department is desirable at any meeting, it shall be competent to such Municipality, by letter addressed to such officer not less than fifteen days prior to the intended meeting, to require his presence thereat; and such officer, unless prevented by sickness or other reasonable cause, shall be bound to attend such meeting, provided that such officer, on receipt of such letter, may, if unable to be present himself, instruct a competent subordinate as to his views and may send him to the meeting as his representative, instead of appearing thereat in person."

Seconded by Mr. Gopala Pillai.

The motion was opposed by Mr. Subba Aiyar.

President :—"I think that if the amendment be accepted, it may often lead to friction between the various heads of Departments and the Municipalities, and it will also lead to practical difficulties. The District officer may not sometimes be able to attend the meeting, and a subordinate officer may not be able to supply the information required."

The amendment was put to the vote and lost.

SECTION 27.

Mr. Govinda Menon proposed that sub-sections (1) and (2) be deleted, and that the following be inserted in their place:—

"Any powers or duties or executive functions which may be exercised or performed by or on behalf of the Municipality, may, subject to the provisions of Section 41, by a resolution, be delegated to the President, Vice-President or Sub-Committee or to one or more stipendiary or honorary officers, and the Municipality may, by a like resolution, withdraw the powers so delegated. Each person who exercises any power or performs any duty or function so delegated may be paid all expenses necessarily incurred by him therein."

The motion fell through as it was not seconded.

SECTION 28.

Mr. Gopala Pillai moved that the words "and shall be laid before the next ensuing meeting and signed at, and by the President of, such meeting" be substituted for "and shall be signed.....at the meeting" in lines 3 to 5 of sub-section (1).

Seconded by Mr. Parameswaran Pillai.

The amendment was opposed by Mr. Subba Aiyar.

After some discussion, the motion was put to the vote and lost.

Mr. Govinda Menon moved that the Proviso to sub-section (3) be deleted, and that the following be inserted as sub-clauses (*a*), (*b*) and (*c*) of that sub-section:—

"(*a*) The Council may, at any time, require the President (1) to produce any record, correspondence, plan or other document which is in his possession or under his control as President, or which is recorded or filed in his office, or in the office of any Municipal officer or servant subordinate to him, (2) to furnish any return, plan, estimate, statement, account or statistics concerning or connected with any matter appertaining to the administration of the Regulation or the Municipal government of the Town, (3) to furnish a report by himself, or to obtain from any head of a department subordinate to him and furnish with his own remarks thereon, a report upon any subject connected with the administration of this Regulation or the Municipal government of the Town.

(*b*) Except as hereinafter provided, every such requisition shall be complied with by the President without unreasonable delay, and it shall be incumbent on every Municipal officer and servant to obey any order made by the President in pursuance of such requisition.

(*c*) Provided that if, on such a requisition as aforesaid being made, the President shall declare that immediate compliance therewith would be prejudicial to the interests of the Municipality or of the public, it shall be lawful for him to defer such compliance until a time not later than the second ordinary meeting of the Municipality after he shall have declared as aforesaid. If at such meeting or any meeting subsequent thereto, the Council shall repeat the requisition, and if it shall then still appear to the President inexpedient to comply therewith, he shall make a declaration to that effect, whereon, it shall be lawful for the Council to elect

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two Councillors who with the President shall form a Committee who shall engage to keep secret, same as hereinafter provided, the existence and purport of such document and matters as may be disclosed to them ; and to the said Committee, the President shall be bound to make known and disclose all writings and matters within his knowledge, under his control or available to him and embraced within the requisition; and the said Committee having taken cognisance of the information, writings and matters so laid before them, shall determine, by a majority in case of difference, whether or not the whole or any part and which part, if any, of such matters ought to be disclosed to the Council or to be kept secret for a defined time, which decision shall be conclusive and shall be reported to the Council at the next ordinary meeting thereof, where also the President shall be prepared to produce documents and to make any report or statements requisite to give effect to the decision of the Committee, when called on to do so by the Council."

In proposing the above amendment, Mr. Govinda Menon said:—

"This provision is bodily taken from the Bombay City Municipality Act. This is the only Act which provides for such contingencies. By the Proviso, absolute power is given to the President to refuse any document, but my amendment affords an easy means of acceeding to the wishes of the Council. Sometimes, there have been cases in which it is not possible to disclose the contents of some documents or other papers at least for some time to come. Now there is only the assurance of the President. The amendment provides that if the Members are not quite satisfied with the assurance, the Council can pass a resolution and appoint a Committee. If that Committee also decide that the matter should not be made public, the decision becomes conclusive. This is only a solution of a practical difficulty which has arisen in many places and which is likely to arise here also."

In seconding the motion, Mr. Gopala Pillai said :—

" Sub-section (3) makes provision for the right of each Councillor to have access to the records of the Municipal office ; and the amendment relates to the power of the whole Council, in respect of the same. If a Councillor stands in need of a document in connection with the Municipal administration, he will have to ask the President's permission and call for the paper, and the President is also given power to refuse that paper. Supposing for instance, the President refused a paper and that paper was necessary, then the Councillor might move a resolution before the next meeting, and then the whole question may be gone into about the necessity of the paper and about the subject bearing upon the paper, and if the resolution is passed, the Council as a body can call for the production of that paper. In the first place, I may say that all the records in a Municipal office are the property of the Council, and taking that aspect of the matter, the Council as distinct from each Councillor should have the right to have free access to those records."

President :—" If the President obstinately refuses to show the records, without any reason whatever, has not the Council the right of passing a resolution asking the President to show the record ? "

Mr. Gopala Pillai :—" There is a difficulty. In the case of Corporations, it is sometimes said that, when there is no specific provision made by a rule of law, that privilege cannot be claimed by any one. The learned Mover, in introducing the Bill, quoted the English Law which says that, in the case of Corporations, specific powers should be vested in them by the statute itself. There is nothing positively dangerous in this amendment, and why should it not be specifically put in the Bill ? I think that this provision would obviate considerable difficulty, and moreover no principle is involved in it, because, as I said, the records of the Municipal office are the property of the Council. But when there is a difference of opinion, between the President and the Council in the matter, it will create an unpleasant state of affairs. I therefore beg to second the amendment proposed by Mr. Govinda Menon."

Mr. Subba Aiyar :—

" I beg to oppose the motion. In the first place, the procedure suggested by the amendment is very cumbrous. In the second place, the provision is not applicable or suitable to the Municipalities in Travancore. In the Bombay City, there are three statutory authorities in corporation matters. One is the Councillors, the other is the standing Committee and the third the Commissioner. These three have independent statutory powers and these powers are detailed in the Act. The Commissioner is not a Member of the Municipal Council, nor has he any voice in the proceedings of the Council. The President of the Council is a different person from the Commissioner. The Commissioner is the executive head and is in possession of the records of the Council. The obligations of the Commissioner towards the Councillors are therefore detailed in that Act. Here, in Travancore, we have nothing of the kind. The President is a Member of the Council and its executive head. He is, I believe, entitled to equal privileges as Councillors, if not more, as the President of the Council ; so that the President need not be treated as an executive officer subordinate to the Council as a Commissioner under the City Municipality Act. So far as the right of inspection is concerned, the Bill provides that the President should allow inspection, except for reasons to be recorded in writing. I agree in saying that the Council should be at liberty to go through the papers belonging to the Council and the Section provides for it. The preparation of plan, etc., may be moved by a resolution and passed, and the President is bound to prepare them. If he does not do it, he may be punished according to Clause (*f*) of sub-section (1) of Section 19.

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I do not agree with my friend Mr. Gopala Pillai that in matters of this kind, *viz.*, preparation of plans, etc., the Council will have no power unless it is specifically provided for in the Bill. The law that I referred to in introducing this Bill applies to a different set of circumstances. This being so, I do not see what necessity there is for this elaborate provision which is totally inapplicable to the conditions of Municipalities here. The provisions in this Section that the President shall have custody of the papers and that every Member shall have liberty to peruse them are quite ample. In case the President refuses access to the papers, he has to give his reasons in writing. If the President is arbitrary in his refusal, there are other provisions in the Bill for dealing with him as mentioned before."

Mr. Govinda Menon :—

"Here, the President is both the executive officer and the President of the Council. There is therefore all the more reason why he must act according to the directions of the Council."

The amendment was put to the vote and lost.

Mr. Gopala Pillai moved that the following Clause be inserted as a separate para after the Proviso to sub-section (3) :—

"Our Government may revise the decision of the President forbidding such access."

Seconded by Mr. Parameswaran Pillai.

Mr. Subba Aiyar accepted the principle of the amendment, but suggested that the Clause be revised as follows :—

"Any order of the President forbidding access under this Proviso may, at the instance of the aggrieved Councillor, be revised by Our Government."

The Council adopted Mr. Subba Aiyar's suggestion.

SECTION 29.

Mr. Govinda Menon, in moving that the whole of sub-section (1) be deleted, said :—

"I do not think it advisable to define the functions of the Municipalities in a few words. It would be, as it were, a kind of limitation on their functions. Even the definition given in respect to some of these is vague. For, one of the functions according to one of the provisions of this Section is to consider all questions connected with the administration of Municipalities. I do not think there is any use in a definition like that. Most of the District Municipalities Acts and the City Municipalities Acts have no provision like this. I would rather leave the functions of the Municipal Councils undefined."

Seconded by Mr. Parameswaran Pillai.

Mr. Subba Aiyar :—

"The Section does not define all the duties of a Municipal Council. It merely gives a few examples illustrative of their duties, over and above those specified in subsequent Chapters ; so that any duty not mentioned in the Section cannot be considered as one not belonging to the Council. There is no harm in retaining the provision as it may serve the purpose of showing what sort of duties the Councils have to do. The amendment is therefore unnecessary."

The motion was put to the vote and lost.

Mr. Parameswaran Pillai moved that the words "and to move resolutions" be inserted between the words "President" and "on" in line 1 of Clause (*b*) of sub-section (2).

Seconded by Mr. Govinda Menon.

Mr. Subba Aiyar :—

"The amendment is evidently from the Indian Councils Act. As regards the Legislative Councils in British India, the Members are allowed to discuss the budget, to move resolutions, and to make interpellations ; because, there, under the constitution, the executive administration of the Province vests in the Government, and the Legislative Council, being merely a legislative body, has no power over administrative matters. Here, the duty of a Municipal Councillor is to bring forward motions touching the administration of the Municipality. Everything that has to be done, has to be done through the Council and that is by way of a motion at the meeting of the Council. This motion if accepted by the Council becomes a resolution. The entire administration of the Municipality vests in the Municipal Council, which has to administer only by way of resolutions. I therefore think that the amendment is unnecessary."

The motion was put to the vote and lost.

SECTION 30.

Mr. Govinda Menon moved that the words "in whom the entire executive power of the Council shall be vested and who shall be directly responsible for the due carrying out of the provisions of this Regulation" in lines 2 to 6 of para 1 of sub-section (1) be deleted, as such a provision did not find a place in many of the British Indian Acts, and as, under the provision, the Council had not only to serve Government but also the President.

Seconded by Mr. Parameswaran Pillai.

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Mr. Subba Aiyar :—

"I beg to oppose the amendment. The Municipal Council as a body can never do any act, and can do so only through somebody. The President is a responsible Member of the Council. He is not a mere servant like a Sanitary Overseer or somebody who has simply to obey the orders of the Council or of the President. He is a responsible Member and also the responsible executive officer of the Council, and as such, the executive management of the Council vests in him. All the executive work passes through him and he is made responsible for it. That is why the Section says that he is 'directly responsible for the due carrying out of the provisions of this Regulation'. This executive power has to be vested in somebody, and none is better fitted for that purpose than the President."

The motion was put to the vote and lost.

Mr. Parameswaran Pillai, in moving that the Proviso to sub-section (1) be deleted, said :—

"It appears to me that it is rather a wide and dangerous power that is sought to be entrusted under this provision to the President, especially as a nominated Councillor would not be responsible to the Council. It is presuming too much to suppose that a responsible Municipal Council, when they pass a resolution, will not take into account whether such a resolution would cause obstruction, injury, etc., and to suppose that Government are the only body which would be capable of taking into consideration these matters. The Municipal Council also should consist of responsible men who would take into account these matters in passing the resolution. Once the resolution is passed, it is certainly the duty of the President to carry it out and not to take it upon himself to judge as to whether the resolution should be carried out or not. I think that this Proviso is unnecessary and that the power given under it will sometimes be abused and that it is dangerous to invest the President with this autocratic power."

Seconded by Mr. Govinda Menon.

Mr. Subba Aiyar:—

"I beg to oppose the amendment. The Proviso in question says that in cases where the President thinks that a certain resolution passed by the Council is not legal, or that for the reasons mentioned in the Proviso the carrying out of the same is objectionable, he may suspend the execution of the resolution. This provision is necessary in this way. The President is enjoined to carry out the resolution, and if there is wilful disobedience on his part to carry it out, he may forfeit his Presidentship. He may carry out the resolution if he sees no objection to it. But, being a responsible officer of the Council, if he has got a doubt as to the advisability of carrying out the resolution, he may communicate the resolution to Government, and until receipt of their orders, he may defer the execution of the resolution of the Council. He is not allowed to override the directions of the Council. He is not empowered to veto the resolution himself, or to say that he will not carry out the resolution. I submit that there cannot possibly be any inconvenience or any harm or disparagement to the Council. Further, there is a Section 248 in the Bill empowering the Government to suspend or cancel a resolution passed by a Municipal Council for grounds mentioned in that Section. I do not think there is any amendment proposed in the agenda paper to that Section. If that Section is left alone, and if the resolution of the Council may, under exceptional circumstances, be revised by the Government, I do not see what objection there can be if the President gives the necessary information to the Government. I think that the Proviso may be left as it is."

The motion was put to the vote and lost.

Mr. Subrahmanya Pillai suggested that the words "a requisition "and "authorisation" be substituted for the words "an order" and "order" in lines 2 and 6, respectively, of sub-section (3).

Mr. Subba Aiyar accepted the amendment, but it was resolved by the Council to delete the words "by an order" in line 2, and to substitute the word "authorisation" for "order" in line 6.

SECTION 33.

Mr. Govinda Menon moved that the existing Clause (*g*) be deleted, and that the following be substituted :—

"The number, appointment, salary, duties, executive powers, leave, fining, suspension and removal, of its officers and servants."

Seconded by Mr. Parameswaran Pillai.

Mr. Subba Aiyar opposed the amendment, and it was put to the vote and lost.

SECTION 34.

Mr. Parameswaran Pillai, in moving that the words "subject to the sanction of Our Government" in line 1 of sub-section (1) be deleted, said :—

"It appears that the retention of these words will simply be productive of delay, unnecessary correspondence, and sometimes friction between the Government and the Municipal Council. Now, the policy underlying the Bill, as far as I have been able to understand it, is that once a Municipal Council is established and its constitution fixed, its management or its administration is entirely to be left to the Council itself. What shall be the number and salaries of the servants, what shall be their grades—all these are matters of detail, to be determined by the Council. I cannot see why all these should be subject to the control or sanction of Government. The Government are not the proper authority to decide matters like these

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There are matters which depend upon various circumstances which the Councils will alone be in a position to determine. The only result of retaining power with Government in these matters will be, as I have said, to give room for unnecessary delay and correspondence and also some amount of friction between the Government and the Councils. I particularly refer to this matter, for I have had experience of it while I was a Member of the Quilon T. I. C. I remember an instance in which—I believe it is no breach of confidence to say that now—the Committee recommended the appointment of a particular clerk on Rs. 10 to help the Sanitary Inspector, and the Government for some reason or other refused to grant sanction, and the Committee protested against it. Finally the Government sanctioned it. I mention this to point out that such interference on the part of Government merely led to a good deal of correspondence and unnecessary friction and heartburning, and that it did nobody any good. I strongly suggest that the Government should be a little more liberal and allow the Councils to exercise their powers in respect of appointments and dismissal and determining the number of their servants and things of that kind. These are purely matters of detail and nobody will be the better by interfering in them."

President:—

"Is there not a Section to the effect that the budgets of the Municipal Councils are subject to the sanction of Government? Have you moved any amendment to that Section? If you move the deletion of that particular provision, certainly your present amendment is consistent. If you have no objection to the budget of the Municipal Council being sanctioned by the Government, is it not necessary that the Government should have a voice in fixing the salary and number of the Municipal servants? Is it not necessary that the Government should have that power when the power of sanctioning the budget is vested in them?"

Mr. Parameswaran Pillai:—

"I humbly submit that it is unnecessary. It appears to me that the control of the Government over the budget will be merely a general control. The budget will be determined by the Council. The control of the Government will be only advisory. This provision is merely a matter of detail which may be left to the Council, and it may even save unnecessary loss of time to Government and their subordinates."

Seconded by Mr. Subrahmanya Pillai.

Mr. Subba Aiyar:—

"I beg to oppose the amendment. This is not exactly a case of detail but a question of principle. Every Municipality has got a fund at its disposal and the Municipal fund is derived from the various Municipal dues. It also includes contribution from Government. In the case of fund of this type, Government ought to see if the money that is spent is spent for proper purposes. They have to see that money raised for a particular purpose is spent for that purpose and is not wasted. Of course the Municipal Councils will be the best Judges in these matters, and the Government will be guided by their views generally. But Government should have power to veto or sanction their recommendation. This is absolutely necessary for the reason that Government should have control over the budget, for the budget means receipt and expenditure. The raising of expenditure permanently, by raising the number of servants and their salary, will be a permanent charge on the Municipality, and the raising of permanent charge must necessarily have the sanction of Government. Government should be in possession of all facts, so that Municipal affairs may be properly administered. This is certainly not going into details as to whether this appointment or that appointment is necessary. Whether any appointment is necessary at all or whether a salary ought to be raised at all is a matter which ought to receive the formal sanction of Government."

Mr. Parameswaran Pillai:—

"The argument of the learned Mover that, because the Government make—I do admit that Government make—certain allowance or grant in respect of these Municipalities, the Government should have control in these matters, does not appeal to me. At present, the major portion of this fund is derived from other sources."

President:—

"Do you know what the contribution of Government is? I may tell you that the contribution in respect of the Trivandrum Committee is Rs. 25,000. I believe it is a very large proportion of the total receipts of this Committee."

Mr. Parameswaran Pillai:—

"My statement was general. Trivandrum being the Capital City of the State, special attention has to be paid to it by Government, and so a large amount is contributed. In the case of other Committees, so far as I know, the grant does not even come to one-third of the total income of the Committees. It appears from the several provisions of this Bill that in future the grant that may be made by Government to the Municipalities will be lower in comparison with the total income which may be raised from the Municipalities by income-tax, vehicle-tax, etc. Of course, it may be for the interests of Government to see that the total income is not exceeded by the provision for expenditure. But to go and interfere with every

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item of expenditure of the Municipality is, I submit, not at all conducive to the proper administration of these Municipalities. Because the Government make a contribution, does it follow that they should put their finger in every little detail of the administration of the Municipalities? I certainly deem that it is a matter of principle and object to it. I also strongly feel that this will lead to great inconvenience, injury and annoyance."

The motion was put to the vote and lost.

Mr. Govinda Menon, in moving that the whole of sub-section (2) be deleted, said:—

"Under this provision, the Government have taken power to ask the Municipal Council to appoint a Chief Officer, etc., whether the Council considers it beneficial to its administration or not. At the same time, if the Government are prepared to make a contribution towards these appointments, there will be some justification. I think that this provision advocates a policy which is the reverse of anything which is conducive to the healthy progress of local self-government in Municipalities."

Seconded by Mr. Parameswaran Pillai.

Mr. Subba Aiyar:—

"The amendment cannot be accepted. Important officers such as the Health Officer, &c., may be absolutely necessary in the interests of the Councils, and the Municipalities, being in charge of the public health, ought to pay for such appointments."

The amendment was put to the vote and lost.

Mr. Gopala Pillai moved that the words "after ascertaining the views of the Municipal Council" be inserted between "if" and "in" in line 1 of sub-section (2).

Seconded by Mr. Parameswaran Pillai.

Mr. Subba Aiyar accepted the amendment, and after some discussion, the sub-section was recast by the Council as follows:— "If, after ascertaining the views of a Municipal Council, it appears to Our Government at any time that the appointment of a Chief Officer, or Health Officer, or an Engineer, or any one or more of such officers, is necessary, it shall be lawful for Our Government to require the Municipal Council to make such appointment."

Mr. Parameswaran Pillai moved that the words "the Council" be substituted for the words "Our Government or the President" in lines 2 and 3 of sub-section (3).

Seconded by Mr. Subrahmanya Pillai.

Mr. Subba Aiyar opposed the motion, and it was put to the vote and lost.

SECTION 35.

Mr. Parameswaran Pillai moved that the words "to Our Government immediately and" in line 2 of Proviso (ii) be deleted.

Seconded by Mr. Govinda Menon.

Mr. Subba Aiyar opposed the motion, and it was put to the vote and lost.

SECTION 37.

Mr. Parameswaran Pillai moved that the following Proviso be added to the Section :—

"Provided that any person aggrieved by any such order may appeal to the Council against such order."

Seconded by Mr. Govinda Menon.

Mr. Subba Aiyar :—

"Section 254 (1) (*d*) provides for making rules as to the punishment and dismissal of the Municipal servants and as to the appeals therefrom. The suggested amendment may be considered when the rules are framed."

The amendment was put to the vote and lost.

The Council adjourned for lunch at 2-15 P. M., and re-assembled at 3 P. M.

SECTION 42.

Mr. Govinda Menon moved that the words "and two Councillors, and sealed with the seal of the Municipality" be added at the end of the Section."

Seconded by Mr. Gopala Pillai.

The Council however thought that the addition of the words "and two Councillors" was enough, and resolved to amend the Section accordingly.

SECTIONS 45 AND 46.

Mr. Subba Aiyar moved that the words "Section 11 (*j*)" be substituted for the words "Section 11 (*i*)" in line 4 of sub-section (3) of Section 45, and in line 6 of Clause (*o*) of Section 46, consequent on the introduction of a new Clause in Section 11.

The amendment was accepted by the Council.

SECTION 48.

Mr. Gopala Pillai moved that the words "a Councillor" be inserted between the word "Council" in line 1 and "or" in line 2.

Seconded by Mr. Govinda Menon.

Mr. Subba Aiyar accepted the amendment, and it was carried.

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SECTION 51.

Mr. Gopala Pillai moved that the word "action" be substituted for the word "suit" and that the word "Councillor" be added after the word "authority" in lines 1 and 2, respectively.

Seconded by Mr. Govinda Menon.

Mr. Subba Aiyar opposed the amendment, and it was put to the vote and lost.

SECTION 53.

Mr. Parameswaran Pillai moved that the words "travellers' bungalows, chatrams, rest-houses, cattle pounds" be inserted in Clause (*a*) of sub-section (1).

Seconded by Mr. Gopala Pillai.

Mr. Subba Aiyar :—

"The expression 'public buildings' mentioned in the Clause will include "travellers' bungalows" etc., referred to in the amendment if they are constructed or maintained out of the Municipal fund. If such buildings are not constructed or maintained out of the Municipal fund but by the Government or otherwise, there is no reason that such buildings should vest in the Municipal Councils, or that they should have control over such buildings."

The amendment was put to the vote and lost.

Mr. Govinda Menon moved that the words "the cost or" and "whichever shall be less" in line 9 of sub-section (2) be deleted, and that the following provision be added at the end of the sub-section :—

"If any question arises between Our Government and a Municipal Council as to the compensation to be paid under this Clause, the decision of Government in the matter shall be final."

Seconded by Mr. Gopala Pillai.

The motion was opposed by Mr. Subba Aiyar, and it was put to the vote and lost.

SECTION 55.

Mr. Govinda Menon moved that the words "with the sanction of the Registrar of Co-operative Societies, with any Co-operative Credit Society with unlimited liability" be inserted between the words "or" and "with" in line 3 of sub-section (1).

Seconded by Mr. Parameswaran Pillai.

Mr. Subba Aiyar, in opposing the motion, said :—

"I do not think that the Section should specify the name of any particular bank other than that of the Government. The Section clearly provides for investment in public securities."

The amendment was put to the vote and lost.

Mr. Subba Aiyar :—

"The expression "public securities" is not defined in the Bill. I think it is better to add a definition by way of explanation in this sub-section itself. I therefore beg to move that the following definition be inserted at the end of the sub-section :—

"*Explanation.*—The expression 'public securities' shall mean—

(*a*) securities of the Government of India ;

(*b*) securities of Our Government ; and

(*c*) any security expressly authorised by any order which Our Government may make in this behalf."

Seconded by Mr. Mahadeva Aiyar.

Carried.

SECTION 58.

Mr. Subrahmanya Pillai moved that the words "places or trees" be substituted for the words "or places" in Clause (*g*) of the Section.

Seconded by Mr. Govinda Menon.

Mr. Subba Aiyar accepted the amendment, and it was carried.

Mr. Parameswaran Pillai moved that the following be inserted at the end of Clause (*o*):—

"and others who, by reason of physical or mental incapacity, are unable to work for their livelihood."

Seconded by Mr. Subrahmanya Pillai.

Mr. Subba Aiyar opposed the motion, and it was put to the vote and lost.

SECTION 60.

Mr. Govinda Menon moved that the following be inserted as Clause (*k*), the existing Clauses (*k*) and (*l*) being re-numbered as (*l*) and (*m*):—

"educational objects other than those specified in Section 58 (*p*)."

The motion fell through as it was not seconded.

Mr Parameswaran Pillai moved that Clause (*k*) be deleted.

Seconded by Mr. Govinda Menon.

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Mr. Subba Aiyar :—

"This Clause was not in the original Bill. The Conference of the T. I. C's. held in Trivandrum suggested this, and several T. I. C's. desired that this provision should be embodied in the Bill. I do not think that there is any objection to insert this provision when the Committees consider it desirable."

The amendment was put to the vote and lost.

Mr. Govinda Menon moved that the word "instruction" be inserted between the words "health" and "or" in line 2 of Clause (*l*).

Seconded by Mr. Parameswaran Pillai.

The motion was opposed by Mr. Subba Aiyar, and it was put to the vote and lost.

The Council adjourned at 4 P. M., and met again at 12 noon the next day. All the Members that attended the previous day were present, and the Council resumed the consideration of the remaining Sections of the Bill.

SECTION 61.

Mr. Gopala Pillai, in moving that the words "buildings or lands belonging to Our Government" in line 1 of Clause (*a*) of *Exemption II* to sub-section (1) be deleted, spoke as follows :—

"My amendment is to delete the Clause which exempts Government lands and buildings from Municipal taxation. Various objections have been raised by the Select Committee in their report to the levying of tax on Government lands and buildings. One of these objections is that, as the number of buildings outside Trivandrum is not considerable, the Municipalities may not be materially benefited by taxing Government lands and buildings. My submission is that the point is not whether the Municipalities would materially be benefited, but it is whether Government buildings should be taxed or not. To say that the Municipalities should relinquish the money due to them because the amount that can be raised by way of such tax is small, is against the fundamental principle that should guide the conduct of the Municipal Councils or of Government. Government are very particular that these Councils should realise the moneys that are due to them, and in the same breath, when it is a question of money that should come from Government, they say that they will not pay. This, I submit, is forcing the Municipal Councils into the position of a creditor whom the Legislature refuses to help in realising his dues, and is a root violation of principle, because Government themselves come in against taxation.

The next argument that is raised on the point is that there is a liberal contribution from Government so far as the Trivandrum T. I. C. is concerned and that contributions are made to other Committees also. Here we have a provision creating a statutory right in favour of Government for exempting their lands and buildings from Municipal taxation; but there is no provision for a proportionate contribution from Government to the Municipal fund. This argument is not therefore justifiable. In discussing this point, I take it that the contribution relied on by the other side is of a permanent nature. But coming to this question itself, I may say that, so far as Trivandrum is concerned, there are a number of buildings owned by Government and they have been deriving certain income by renting them out. While so, why they should claim this exemption is not clear to me. So far as the contribution is concerned, it is of a transitory nature. It is a fluctuating figure. It is, as it were, a dole of charity, and the Government may stop it at any moment. Therefore, this is not a point on which an argument could be built. A few years ago, the Trivandrum Committee had an Official President for whom the Committee had not to pay. The contribution to the Committee was also larger than at present. In 1080, the contribution was about Rs. 37,000, in 1081, about Rs. 43,000, and in 1082, about Rs. 39,000, and now we find that the amount has been reduced to Rs. 25,000. So, in course of time, as the demands on the Committee's purse became heavier, the Government have also chosen to reduce their grant. This is the principle which now guides the conduct of Government in regard to the help that is being rendered by them to the Committees. In this connection, I may also bring to the notice of the Council another circumstance. At a meeting of the Municipal Conference, a resolution was passed, requesting Government to continue the grants now allotted to the Committees in the State. The reply of Government to this request is very instructive in regard to the contribution that is so much relied on for exempting Government lands and buildings from Municipal taxation. The Chief Secretary wrote to say that 'considering the wide scope given to the T. I. C's. under the Municipal Bill now before the Legislative Council to develop their resources, Government feel that there is hardly any necessity for making the assurance that the existing grants will be continued for any specific period.' This will mean that the T. I. C's. have to shift for themselves and that Government, if willing, may give them some money. Under these conditions, I submit it is not right for Government to claim exemption from house-tax. I concede that the Trivandrum Committee is getting a liberal grant. But taking the position of Trivandrum, I think that the city is entitled to an exceptional treatment. The existence of the Agrasala and the Palace has to be taken into consideration in deciding whether, after all, the contribution is a very large one. These institutions have to be specially attended to. Comparing the area of the Fort with that of the whole Town, the Committee is now spending proportionately six times upon the Fort. There is an order of Government not to make any disturbance so far as the arrangements in the Fort are concerned. Then again, a paid President, which means a drain of between Rs. 4,000 and 5,000 annually on the Committee's fund, has been thrust upon the Committee against its wishes. This amount should be

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paid by Government and should not be charged against the Committee. Let us take another aspect of this question. Trivandrum being the capital city, several people resort to it for various purposes from the mofussil parts. So the Committee has to attend not only to the convenience and comforts of the people of the Town, but also to those of the population that is coming into it from outside. Under these circumstances, it is only just and proper that the general revenues of the State should also contribute towards the fund of this Town. Taking all the above facts into consideration, I submit that the allotment now made by the Government to the Trivandrum T. I. C. is not after all a very large one.

The other arguments that are advanced on the point are that there are ever so many Regulations exempting Government from their operation, that this privilege of exemption has been in existence for a long time and that some of the provisions of this Bill itself provide for making exemptions in favour of Government in regard to other matters, such as vehicle-tax, the deposit of building materials in public streets, and so on. To this my reply is that none of the Municipality Acts in British India contain a like provision; that the existence of a practice is not an argument for its continuance; and that exemption from one liability is not a reason for extending the same under another. These objections are therefore untenable and do not justify the present provision unless it be that Government are obstinate in retaining it. Neither principle nor feasibility is in favour of this provision, and I therefore beg to move that it be deleted."

Seconded by Mr. Parameswaran Pillai.

Mr. Subba Aiyar :—

"SIR,

I beg to oppose the amendment. The exemption of Government buildings from Municipal taxation is not a new thing in Travancore. Everywhere, the Crown is not bound by any statute unless named expressly or by necessary implication. In England, lands or buildings occupied by the Crown or by servants of the Crown for the purposes of the Crown are not liable to Municipal taxation. On this ground, not only Royal Palaces but also public buildings like those of the offices of the Secretaries of State and other public offices are exempt from Municipal taxation. In other words, all buildings necessary for the public government of the country are exempt from Municipal taxation. This prerogative of the Crown to be exempt from Municipal taxation is maintained even in British India. The Government of India did not want to submit themselves to Municipal taxation, and Act XI of 1881, *viz.*, the Municipal Taxation Exemption Act was passed. At the same time, the Government wanted to contribute something for the upkeep of the Municipalities, and to have an idea as to the amount to be paid for each Municipality, Government servants are required to state what the annual value of the Government buildings will be and some proportion of it is paid to each Municipality. Thus then it is a voluntary contribution paid to each Municipality of an amount recommended by the District or other officers of the Crown. The Bill itself exempts Government carriages and animals from tax or toll and Government buildings from the building regulations of the Municipalities. There is absolutely no reason why Government buildings should be liable to be taxed by the Municipalities.

Even if the amendment were accepted, all Palaces and lands intended for the use of the Sovereign and the members of the Royal Family are to be exempted. Under Clause (*b*) of *Exemption II*, all buildings used for public purposes are to be exempted. Public offices, educational institutions, medical and other similar institutions will fall under that Clause and will therefore be liable to be exempted. The result will be that we will have some buildings belonging to Government but used for residential purposes liable for Municipal taxation. Even here, I do not propose to consider whether official residences occupied by officers for the purposes of the Crown will be liable to be taxed nor do I propose to discuss the question whether residences of officers to whom the Government are under a covenant to supply quarters or in the alternative to pay house allowance are used for the purposes of the Crown. I will assume for this purpose that all such buildings are liable to be taxed. What will be the result? The President of the Trivandrum Town Improvement Committee was with us at the Select Committee meetings, and he told us that at best such residential buildings will fetch a tax of 2,000 to 3,000 rupees. In the case of other Municipalities there will be practically no building liable to be taxed, and even if there is any, the amount of assessment will be a negligible quantity. Exemption of the Crown from the operation of a statute is based on 'ideas of Royal dignity and prerogative'. It was after taking the various aspects of the question and after anxious consideration and discussion, the Select Committee came to the conclusion that it is not necessary to change the existing law on the subject. For the above reasons, I do not find it possible to accept the amendment."

Mr. Gopala Pillai :—

"I freely concede that the Crown is exempt from taxation. Another amendment of mine is based upon the very prerogative which is claimed for the Sovereign by my friend Mr. Subba Aiyar. The Crown is absolutely different from the Government and this distinction has to be borne in mind in discussing the question before us. All the observations of my friend are beside the point, because they are based on the assumption that Government is identical with the Crown. In regard to the observation that in British India the Government are a consenting party to such taxation and that otherwise the tax could not be levied and so forth, I submit that the Government is a consenting party everywhere. The Mover himself admits that there is statutory provision in British India that the Government lands and buildings there

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are subject to Municipal taxation. The question there is only with regard to the rate at which the tax should be levied. Because the Government have a majority on their side in this Council, they are able to impose their own conditions irrespective of the wishes of others who are opposed to them. This applies to the Legislative Councils in British India or elsewhere where such official majority exists. But that is not the point. The point is whether Government buildings can be brought under Municipal taxation. All the British Indian Acts support me because under these Acts Government buildings are taxed. As I submitted, this is a question of principle and the Municipality has no power to make a concession. According to Mr. M. V. Subrahmanya Aiyar, the amount that can be raised by way of tax on Government buildings is between Rs. 2,000 and 3,000. The whole amount collected by way of house-tax in Trivandrum is only Rs. 10,000, and the proportion between Rs. 3,000 and 10,000 is not small. Then the other argument is that the Municipality has no right to tax. I submit that it is one falling under statutory provision. The Municipalities have no power to tax if there is no provision under the law for the purpose. The question is whether that power should be vested in the Municipal Council. So this is only begging the question. In regard to public institutions, there is no proposal to tax the buildings in which they are conducted. It is only the Government buildings which are taxable that should bear the tax. I submit that the reasons given by my friend Mr. Subba Aiyar for exempting Government lands and buildings from Municipal taxation are untenabl and that he has not been able to make out a case for such exemption."

The motion was put to the vote and lost.

Mr. Gopala Pillai next moved that the words "buildings or lands belonging to or in the occupancy of the members of the Royal Family of Travancore" be inserted after the word "Government" in line 1 of Clause (*a*) under *Exemption II* to sub-section (1).

Seconded by Mr. Subrahmanya Pillai.

President:—"I do not think it necessary to insert the provision. Of course, if Government buildings are free from taxation, it necessarily follows that these are also exempted."

The amendment was put to the vote and lost.

Mr. Govinda Menon moved that the following Proviso be added after Clause (*d*) under *Exemption II* to sub-section (1) :—

"Provided that, in the case of buildings and lands belonging to Our Government, the Dewan Peishkar or Commissioner of the Division in which the Municipality is situated, shall annually pay to the Municipality a sum equal to eight-tenths of the tax which an ordinary owner of buildings and lands in the Municipality shall have to pay on such buildings and lands."

Seconded by Mr. Gopala Pillai.

Mr. Subba Aiyar opposed the motion, and it was put to the vote and lost.

Mr. Subrahmanya Pillai moved that the word "valloms" be inserted between the words "carts" and "and" in sub-clause (iii) under the *Exemption* to sub-section (4).

Seconded by Mr. Mackie.

The Council accepted the amendment.

Mr. Subrahmanya Pillai moved that the words "or carts, valloms and animals used solely for agricultural purposes or valloms which will not carry more than two persons" be inserted at the end of Proviso (i) to sub-section (5).

Seconded by Mr. Gopala Pillai.

The motion was opposed by Mr. Subba Aiyar, and it was put to the vote and lost.

Mr. Subba Aiyar moved that the word "construction" be substituted for "contribution" in line 3 of Proviso (i) to sub-section (7).

Seconded by Mr. Chacko.

Carried.

Mr. Gopala Pillai moved that the following be added as sub-section (8) :—

"A yearly tax on lands and buildings, not exceeding one per cent. of the annual value thereof, for the lighting of the streets of the city :

Provided that Our Government may exempt any part of the Municipality from the payment of the said tax."

Seconded by Mr. Govinda Menon.

Mr. Subba Aiyar :—

"This is a question of imposing an additional tax upon the inhabitants of a Municipality. In many Municipalities, scavenging, sweeping and lighting are alone attended to. For scavenging a separate tax is levied. Sweeping and lighting are done from the house-tax that is collected. As the rate of such house-tax has been raised in the Bill, it may perhaps work some hardship on the inhabitants to pay an additional tax. As for drainage and water-tax, it is intended to be levied when drainage system is constructed and maintained by the Municipality, and such tax is intended to be ear-marked for such purpose. However, if the Non-official Members are particular to have this tax, I do not think it necessary to object to it."

Mr. Daniel :—"I am against a separate tax for lighting."

Mr. Parameswaran Pillai :—"I think that this may go in."

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Mr. Subrahmanya Pillai :—"I am indifferent."

Mr. Mackie :—"I am indifferent."

President :—"I think we may reject the amendment."

The amendment was put to the vote and lost.

SECTION 63.

Mr. Govinda Menon moved that the following Proviso be added at the end of the Section :—

"Provided also that, where a Municipal Council, by a resolution in favour of which not less than three-fourths of the number of Councillors of the Municipality have voted, objects to the levy of such taxes or tolls or to the rates at which they are directed to be levied, such taxes or tolls shall not be levied or shall not be levied at such rates."

He said :—

"The provisions of this Bill are so framed as to leave the Councils absolutely at the mercy of Government. In fact, they have been treated as Government Departments. Could we not give them at least the freedom to determine whether it is necessary to tax or not?"

Seconded by Mr. Parameswaran Pillai.

Mr. Subba Aiyar :—

"There may be some Municipalities which would like to have all the other benefits under this Bill but at the same time may not like to levy tax. In such cases, the Government should intervene and see that the necessary money is raised. It is only in exceptional cases that this provision will be resorted to by the Government. It is an exceptional power to be used in exceptional cases, and such power cannot be restricted by the views of the Municipalities."

Mr. Govinda Menon :—

"If the Municipality is recalcitrant, the aid of Section 8 may be invoked."

The motion was put to the vote and lost.

SECTION 64.

Mr. Govinda Menon moved that the words "Our Government, or" in line 1 of sub-section (1) be deleted.

Seconded by Mr. Parameswaran Pillai.

Mr. Mackie said that the Municipal Councils might be allowed to look after their work with as little outside control as possible. He also referred to the 'Reforms Report' of Mr. Montagu and pointed out that the first formula therein enunciated was the need for complete popular control over local bodies with the largest possible independence."

The motion was opposed by Mr. Subba Aiyar.

President :—

"With reference to this I may say that the object of the whole scheme of this Bill is to give very large powers to the Municipal Councils, in fact *very much* larger powers than are now enjoyed by them. The feeling is that these Municipal Councils may go wrong and that, whenever they go wrong, power must exist in Government to lead them in the correct way. Of course, as time goes on and as the experience of the people in Municipal administration becomes larger, certainly, still larger powers will be granted to these Councils. As I said just now, the powers that are sought to be granted by this Bill are very much larger than those already granted under the existing Regulation. The reason why Government think it necessary to entrust these Councils with larger powers is that, during the period for which these institutions have been in existence, people have had some experience in Municipal administration, and that it is thought right that that experience should be availed of by the grant of increased powers. At the same time, care is taken to lead the Councils when they go wrong. This is the principle on which the whole Bill is based. I regret Government cannot accept the amendment."

The amendment was put to the vote and lost.

SECTION 87.

Mr. Subba Aiyar moved that the following be inserted as sub-section (4) and that sub-sections (2) and (3) be re-numbered as sub-sections (3) and (2), respectively :—

"If there is a surplus after such payment, the President shall, on demand within six months from the date of sale, make it over to the owner or other person entitled thereto. If no such demand is made, such surplus shall be forfeited to the Municipal Council."

Seconded by Mr. Chacko.

Carried.

SECTION 90.

Mr. Subrahmanya Pillai moved that the existing Section 90 be treated as sub-section (1) of that Section, and that the following be added as sub-section (2) :—

"Any vehicle or animal in respect of which toll has been paid in any one Municipality shall not be required to pay further toll in any other Municipality in the State within a period of twenty four hours counted from sunrise to sunrise."

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In moving the amendment, he said :—

"There are a number of Municipal Towns close to one another. A fast vehicle like the motor car will in a day's journey pass through a number of Municipal Towns, and if all the Municipalities are going to collect tolls on the same day, I think it will be very oppressive and will be felt very badly by the owners of such vehicles. A motor car starting from the Cape will reach Quilon within about six hours. In the meantime, it has to pass through seven Municipal Towns ; also there are two Government toll gates. An ordinary bullock cart, starting from my village near Nagercoil, will reach Trivandrum in twenty four hours and it has to pass through five Municipal Towns and two Government toll gates. I submit that it will be hard upon the owners of these vehicles to be asked to pay tolls in all these places. It should be the aim of Government and all public bodies to make locomotion as cheap as possible with a view to increase the prosperity of the State. Hence my amendment."

Seconded by Mr. Gopala Pillai.

Mr. Subba Aiyar :—

"Under the Bill, each Municipality has to attend to the maintenance of the roads within its limits, and as a compensation for this, a toll is levied on the vehicles that pass through them. This is the principle upon which the toll is levied. So, if a person pays toll to one Municipality, it will not relieve him from payment to another. So far as the person who travels in six hours from Nagercoil to Quilon is concerned, which is an extreme case, I think that it is a luxury and that such luxury ought to be taxed. Such a person can very conveniently afford to pay all the seven tolls. This is not a professional tax, in the case of which a person paying the tax in one Municipality is relieved from it in respect of another. The levy of toll is on a different principle. Every Municipality levies its own toll. If we go to the adjoining British parts, we find there that every Municipality levies its own toll independent of the fact whether toll is paid to other Municipalities or not. The fact that our Municipalities are nearer each other cannot change the principle on which tolls ought to be levied."

Mr. Parameswaran Pillai :—

"Apart from the instance of motor cars, which is not an extreme case as my friend would put it, I think it is rather very hard that, in the case of a bullock cart coming from Nagercoil to Trivandrum within twenty four hours, the toll should be levied in five different Municipalities. Owing to oppressive tolls, the motor car companies find it almost impossible to get on. In spite of motor cars, a good deal of traffic is carried on through these bullock carts, and in their case, to pay five different tolls in a day is indeed very hard. That there is some principle involved in it I do not deny in as much as every Municipality gets something from its tolls. It appears to me that, after all, the principle is not so strong as to be maintained. In this case, the carriage will have to travel along the Main Central Road and I do not think that the Government are going to ask the several Municipalities to take care of the small bits of the Main Central Road which would lie within the limits of those particular Municipalities. Therefore, even the principle relied on by my friend, I believe, does not exist in a matter like this."

Mr. Subrahmanya Pillai :—

"My friend Mr. Parameswaran Pillai has answered the arguments of Mr. Subba Aiyar. I have nothing more to say in the matter."

President :—

"After having heard the arguments for and against the amendment, I think it would be rather hard upon the Municipalities to deprive them of those tolls, simply because one out of a number of Municipalities has already levied it. As Mr. Subba Aiyar said, persons travelling in motor cars can certainly afford to pay tolls in all the Municipalities."

The motion was put to the vote and lost.

SECTION 91.

Mr. Govinda Menon moved that the word "seven" be substituted for the word "two" in line 10 of sub-section (2).

Seconded by Mr. Gopala Pillai.

Mr. Subba Aiyar opposed the motion, and it was put to the vote and lost.

Mr. Subba Aiyar moved that the following be added as sub-section (5):—

"If there is a surplus after such payment, the President shall, on demand within six months from the date of sale, make it over to the owner or other person entitled thereto. If no such demand is made, such surplus shall be forfeited to the Municipal Council."

Seconded by Mr. Chacko.

Carried.

SECTION 93.

Mr. Subba Aiyar moved that the word "namely" be inserted between the words "lands" and "Sections" in line 2.

Seconded by Mr. Mahadeva Aiyar.

Carried.

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SECTION 94.

Mr. Govinda Menon, in moving that the word "Council" be substituted for the word "President" in line 3 of sub-section (3), said:—

"The power of revoking a license is given to the President under this sub-section. The authority competent to issue the license under the Bill is the Municipal Council, but the authority to cancel it is the President against whose order no provision is made for appeal. What I submit is that the authority which issues the license should be the authority competent to revoke it. There can be no practical inconvenience in accepting this amendment."

Seconded by Mr. Parameswaran Pillai.

Mr. Subba Aiyar:—

"The President has no authority to revoke or suspend a license arbitrarily. What the Section says is that, if any of the restrictions or conditions of a license is infringed or evaded, or if a person is convicted of an infringement of any of the provisions of this Regulation, then the President may revoke or suspend the license. Suppose any particular restriction is violated by the licensee and immediate action has to be taken, it will not do if the Council leisurely meets and then revokes the license. As the executive head of the Municipal administration, the President must have power to see that, if any illegal thing is done or if any violation of rule takes place, prompt action is taken. That is why the word "President" is put in. If the President acts arbitrarily, the Council has got power to renew the license under sub-section (4)."

The motion was put to the vote and lost.

SECTION 95.

Mr. Govinda Menon proposed that the whole Section be deleted, and that the following provision be inserted instead:—

"95. (1) Any person who is dissatisfied with the amount assessed upon him or with the valuation of any holding or who disputes his occupation of any holding or his liability to be assessed, may apply to the Municipal Council to review the amount of assessment or valuation or to exempt him from the assessment.

(2) Every application under (1) shall be made in writing within one month from the date of the publication of the notice under Section 71 (2), or within fifteen days from the date of service of the notice of demand for the payment of the assessment objection to which is taken in the application, and all applications so made shall be registered in a book to be kept by the Municipality for that purpose.

(3) Such application so made shall be heard and determined by a Committee of not less than three Councillors specially appointed by the Council in that behalf, after taking such evidence and making such enquiries as they may deem necessary:

Provided that no Member of a Committee who fixed the assessment or made the valuation which is objected to in the application shall be appointed a Member of the special Committee appointed under this Clause.

(4) The decision of the special Committee shall be entered in the book kept under sub-section (2) and the assessment register shall be corrected in accordance with that decision."

In moving the above amendment, Mr. Govinda Menon said:—

"The principle upon which I base my amendment is the same on which I have based several of my amendments. I do not want to have the subject of assessment to be dealt with by any authority outside the Municipal Council, because the Municipal Council is the authority on the spot and it knows the real facts of the case and it is to the Council that this power should go and not to any other authority.

Seconded by Mr. Gopala Pillai.

Mr. Subba Aiyar:—

"This amendment is against all principles regulating appeals. My friend knows that under Section 71 (5), objections against the assessment are to be heard and determined by the Municipal Council or a Sub-Committee of not less than two Members empowered by delegation, and it is against this decision that the appeal has to be preferred, and my friend would have it to be decided by the Council itself. I do not think that this could be allowed. If a question arises as to the amount of a particular tax, say whether a house is liable to a tax of Rs. 2 or 3, it is a question of fact, and the objector may appeal to the Peishkar or some other officer appointed for the purpose and he may decide it. If it is a question of principle, say whether a particular property is liable to tax and if so on what basis, then the officer hearing may refer the matter for the opinion of the High Court. This is the principle upon which the Section is drafted. I do not know why the Section should be deleted."

Mr. Govinda Menon said that it was through a mistake that the amendment was suggested, and therefore requested leave to withdraw the same.

The amendment was accordingly withdrawn.

The Council adjourned for lunch at 2-15 P. M. and re-assembled at 3 P. M.

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SECTION 101.

Mr. Gopala Pillai moved that the words "and pattern" be inserted after the word "dimensions" in sub-clause (iii) of Clause (*b*) of sub-section (3).

Seconded by Mr. Parameswaran Pillai.

Mr. Subba Aiyar:—

"I doubt whether in the case of buildings constructed by private individuals, sometimes at considerable cost, the Municipality should have control over the pattern of those buildings. If a plan is furnished, as required by the Section, it will give all the necessary particulars. Besides, the last Clause is comprehensive enough and I do not think it necessary to make the production of a pattern obligatory."

Mr. Gopala Pillai:—

"There was once a proposal by the Chief Engineer in regard to the widening of the Chalay Bazaar in this Town, and I remember that one of the suggestions was that new buildings should be put up on an approved plan. This will be quite consistent with that recommendation."

Mr. Parameswaran Pillai:—

"Probably, the operation of the amendment would be only in regard to new streets and it may not have any immediate use. I do not see why we should not have a wider ideal of the civilised countries. In all civilised countries, when a new extension of town is made, particular streets are laid out on particular models, and buildings on particular models are insisted upon for obvious reasons. All must have heard of this coming into vogue. I also understand that in Bengal when a scheme for the extension of the town is taken up, such things are insisted on. It may be necessary for us at any rate in future to insist upon such things in the case of buildings alongside of particular streets. In view of that, I cannot understand why we should not introduce the provision in this Section itself enabling Municipalities, whenever they find any such need, to control the kind of buildings that may be built up on the sides of streets. This is quite an innocuous provision as it is, because it will only relate to new streets to be laid out by the Municipalities. When they lay out new streets, and if they think it proper in the interests of the Towns, they may insist upon particular buildings being built up there. I think the amendment is necessary."

Mr. Mackie:—"I do not think there will be any hardship. This is in vogue in England, and I beleive, in other countries also."

President:—"Does it not come under the last Clause?"

Mr. Parameswaran Pillai:—

"Even if it does, it will be better to make it plainer. The other is a general Clause, which will be interpreted in the light of other provisions of the Section, and therefore from the general provision it will be very doubtful if the Municipal Council will have power to insist upon a particular kind of building being put up. Of course, if it is intended that they should have power, it is better that it is made more explicit."

President:— "This applies only to new streets, and I do not think there is any harm in having the provision".

Mr. Mahadeva Aiyar:— "It is only discretionary under the Section."

President:— "Is 'pattern' then the correct word to be used?"

Mr. Raman Pillai:— "'Design' is probably better."

Mr. Gopala Pillai:— "I have no objection to the word 'design'."

The Council accordingly resolved to insert the word "design" after the word "dimensions" and to place the word "and" occurring before the latter word, after it.

SECTION 108.

Mr. Gopala Pillai moved that the words "with the sanction of Our Government" in lines 5 and 6 of sub-section (1) be deleted.

Seconded by Mr. Parameswaran Pillai.

Mr. Subba Aiyar opposed the motion, and it was put to the vote and lost.

Mr. Subba Aiyar moved that the word "direct" be inserted between the words "any" and "damage" in line 2 of the Proviso to sub-section (1).

Seconded by Mr. Mahadeva Aiyar.

Carried.

SECTION 110.

Mr. Gopala Pillai moved that the words "and such other particulars as the Council may deem necessary" be added as sub-clause (vi) of Clause (*b*) of sub-section (3).

Mr. Subba Aiyar accepted the amendment, and it was carried.

SECTION 111.

Mr. Parameswaran Pillai, in moving that the words "the plan of the building" be

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inserted as Clause (*e*) in the Section, and that the other Clauses be re-numbered, spoke as follows :—

"I beg to introduce a new Clause in this Section by which the Municipalities may, in their bye-laws, provide for regulating the plan of the building to be erected or re-erected within the Municipality. What I mean is that, if the Municipality should consider at any time that any particular street should be built in a particular form, then it can lay out a plan, and as each building is demolished and rebuilt or as each new building is put up, it can insist upon the building being put up according to that plan, so that by the time all the houses are built, the Municipality will have a street in the style in which it desires to have it. This provision will apply to new buildings erected or old buildings re-erected, and so I think there can be no objection to this provision being inserted. If the Municipalities should think that in any particular street houses should be built in a particular manner—I hope in future they will desire—this provision will help them to do that. Having laid out a street and having laid out a plan of the houses, they can insist upon the new houses being built up according to their plan, so that in course of time, automatically the street will conform to the plan of the Municipality. This is done in many places as I said in connection with a previous amendment, and there is no reason why it should not be insisted upon here also."

Seconded by Mr. Govinda Menon.

Mr. Subba Aiyar :—

"The construction of a new street stands on a different footing from that of an individual building in an existing street. It may not be possible for a person to act up to the directions of the Municipality when he constructs a house between two houses in a street. He may have to conform to the buildings on either side. I therefore beg to oppose the amendment."

The amendment was put to the vote and lost.

Mr. Gopala Pillai moved that the following be inserted as an additional Clause :—

"(*h*) Such other particulars as the Council may deem necessary."

Mr. Subba Aiyar accepted the amendment, and it was carried.

SECTION 119.

Mr. Subba Aiyar :—

"When the Bill was drafted, there was another Proviso to the effect that, if any building is removed, the owner should be given compensation. But the Select Committee thought that in as much as there is a separate provision, Section 238, it was not necessary. On further consideration, I think that Section 238 may not be enough, as the question of payment of compensation is made obligatory upon the Council only in cases where damage was due to the negligence of the Municipal Council, its officers or servants. In the cases contemplated under Section 119, damage may not be caused by any negligence in the discharge of lawful duty imposed by law. The person sustaining damage may have acquired a legal right over the area either by prescriptive right or otherwise. It is highly necessary that such persons should be paid compensation for the damage. I therefore propose that the following Proviso be added at the end of the Section :—

"Provided also that, if the owner or occupier of the building proves that any such projection, encroachment or obstruction has existed for a period sufficient under the Law of Limitation to give him a prescriptive title, or that it was erected with the consent of any Municipal authority duly empowered in that behalf and that the period, if any, for which the consent is valid, has not expired, the Municipal Council shall make reasonable compensation to every person who suffers damage by the removal or alteration of the same."

Seconded by Mr. Mahadeva Aiyar.

Carried.

SECTION 138.

Mr. Gopala Pillai moved that the following be inserted as Clause (*o*) under sub-section (1), the existing Clause (*o*) being numbered as (*p*):—

"as a place for storing, packing, pressing, cleansing, preparing or manufacturing chemical preparations".

Seconded by Mr. Govinda Menon.

Mr. Subba Aiyar:—

"Section 3 (18) which gives the definition of offensive and dangerous trades is comprehensive enough to provide for the manufactures mentioned in the amendment by Notification of Government. However, there is no objection to accept the amendment."

Mr. Gopala Pillai's amendment was carried.

SECTION 144.

Mr. Gopala Pillai moved that the words "or periodically" be inserted after the word 'ordinarily" in line 1.

Seconded by Mr. Govinda Menon.

Mr. Subba Aiyar accepted the amendment, and it was carried.

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SECTION 148.

Mr. Subrahmanya Pillai moved that the word "knowingly" be inserted between the words "whoever" and "sells" in line 1 of sub-section (2).

Seconded by Mr. Parameswaran Pillai.

Mr. Subba Aiyar opposed the motion, and it was put to the vote and lost.

SECTION 158.

Mr. Gopala Pillai moved that the words "or causes or permits animals to stray" in lines 4 and 5 be deleted.

Seconded by Mr. Subrahmanya Pillai.

Mr. Subba Aiyar accepted the amendment, and it was carried.

SECTION 160.

Mr. Gopala Pillai moved that the following be substituted for sub-section (1):—

"No person shall tether any animals or cause or permit the same to be tethered by any member of his family or household in any public street."

Seconded by Mr. Parameswaran Pillai.

Mr. Subba Aiyar opposed the motion, and it was put to the vote and lost.

SECTION 162.

Mr. Subrahmanya Pillai moved that the words "on the advice of a Medical officer of rank not inferior to that of a Hospital Assistant" in lines 1 and 2 of the last para be deleted.

The motion fell through as it was not seconded.

Mr. Subba Aiyar moved that the words "Sub-Assistant Surgeon" be substituted for the words "Hospital Assistant" in line 2 of the last para.

Seconded by Mr. Chacko.

Carried.

SECTION 163.

Mr. Govinda Menon moved that the following Proviso be added to the Section :—

"Provided that if the President considers that immediate action is necessary or that the occupier by reason of poverty or otherwise is unable effectually to comply with his requisition, the said President may himself cause such building, premises or article to be disinfected, or may cause such articles to be removed from such building or premises; and the expenses incurred by the President under this Section shall be recoverable from the said occupier, unless he was, by reason of poverty, unable effectually to comply with the said requisition."

Seconded by Mr. Parameswaran Pillai.

Mr. Subba Aiyar :—

"Section 234 provides that the President may cause the act to be done and recover the cost of disinfection from the owner. Of course if he is not in a position to pay, the President cannot recover it."

The motion was put to the vote and lost.

The Council adjourned at 5 P. M., and met again the next day at 12 noon. All the Members that attended the previous day, excepting Messrs. Mackie and Raman Pillai were present, and the consideration of the remaining Sections of the Bill was resumed.

SECTION 165.

Mr. Govinda Menon moved that the word "Council" be substituted for the word "President" in line 1 of sub-section (1).

Mr. Subba Aiyar accepted the amendment, and it was carried.

Mr. Gopala Pillai moved that the words "and shall, on demand, give compensation for the articles destroyed" in lines 3 and 4 of sub-section (2) be deleted.

The motion fell through as it was not seconded.

Mr. Subba Aiyar moved that the word "may" be substituted for the word "shall" in line 3 of sub-section (2).

Seconded by Mr. Mahadeva Aiyar.

Carried.

SECTION 173.

Mr. Subba Aiyar moved that the whole of sub-section (2) be deleted.

Seconded by Mr. Kuriyan.

Carried.

SECTION 176.

Mr. Govinda Menon moved that the following Proviso be added at the end of sub-section (1):—

"Provided also that no such license is necessary for the burial or cremation of their dead, in compounds measuring not less than one acre of ground, by families who, by recognised usage, bury or burn their dead in their own compounds."

Seconded by Mr. Gopala Pillai.

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Mr. Subba Aiyar :—

"As the law stands, there is no discretion vested in the Municipality to prohibit cremation or burial, if the extent of a compound is more than an acre. There may be cases in which, though the extent is more than one acre, it may be undesirable to have cremation or burial in the compound. The position of the buildings around, the number of inmates in the compound itself, etc., may all have to be taken into consideration. It may be that in some cases the extent is less than an acre and yet there could not be any objection to permit cremation or burial. The object of the present Proviso is to leave the matter to the discretion of the Council irrespective of the area. The owner of a compound has only to apply to the Council to have any particular compound exempted. The wording of the Proviso follows generally the wording of the Regulation. I therefore beg to oppose the amendment."

The motion was put to the vote and lost.

SECTION 177.

Mr. Govinda Menon moved that the words "with the previous sanction of Our Government" in lines 1 and 2 of sub-section (1) be deleted.

Seconded by Mr. Gopala Pillai.

Carried.

SECTION 191.

Mr. Rengaswami Aiyangar suggested that the words "or an imitation thereof" be inserted between the words "wound" and "shall" in line 4.

After some discussion, the Council accepted the amendment.

SECTION 209.

Mr. Parameswaran Pillai moved that the following be inserted as Section 209 A :—

"The Municipal Council may make bye-laws declaring elementary education compulsory within its local limits."

In moving the amendment, Mr. Parameswaran Pillai spoke as follows :—

"A Bill was introduced into this Council for making elementary education compulsory some years ago, and it was rejected solely on the ground that financial proposals concerning the same were not attached to it. Although the Council saw eye to eye with the Non-official Members in so far as the need for compulsion in elementary education was concerned, they could not accept the Bill, because they could not then find means to make education compulsory, the cost thereof being very heavy. Now, at any rate, I may take it that it has been accepted on all hands that universal education is the object of all Governments. It can certainly not be achieved by voluntary system alone and without resort to compulsion. The Deputy Director of Education had been at great pains to show the maximum result that could be attained by the voluntary system, and in his over-anxiety to show the result, he has over-shot the mark and reduced his position into *Reductio-ad-absurdum*. In his desire, he has shown that, in certain districts which have not been able to reach cent. per cent. 50 per cent. more than the number of school-going children are receiving instruction. Of course, the Government discovered that there was some error. Finally they found out that there was some mistake, and that the mistake evidently lay in the calculation of the percentage. Of course, the mistake lay not only in the percentage of children of school-going age but it lay in many other good things, that is to say, in the first place, the percentage was taken to consist of not only boys of school-going age so far as elementary schools were concerned but also to consist of students attending Colleges and Secondary Schools and all manner of Schools in the State, and secondly, the fallacy consisted in basing the calculation on the Census of 1911. However, the Government admitted in their Administration Report for 1091 that the percentage of boys of school-going age was only 42·6. Of course this is boys and girls put together. According to the report of the following year, it was found that 58·7 per cent of the boys and 19·8 per cent of the girls of school-going age were alone attending schools ; so that in 1092, though we may take it that men and women are equal in number, the percentage reached was 39, which was even smaller than that in 1091. Of course, there was good reason. In the preceding years, a large number of elementary schools came into existence and we almost reached the maximum that could be reached under the voluntary system. So, after all these, we have got 42 per cent of our boys and 80 per cent of our girls of school-going age growing up without any instruction. I need hardly say that this is not only an extremely unsatisfactory state of affairs, but that in a progressive State like Travancore, I must say, comparatively, this is indeed very disgraceful. Certainly, we may perhaps gratify ourselves with comparison with more backward provinces like the Punjab and the North West Provinces or places like that, but I say that we are not to compare ourselves with backward provinces but that we should keep the forward provinces as our ideal. The ideal of most of the civilised countries is universal education, and I believe that it is the ideal of this State also as it ought to be, and if that is so, I am certainly of opinion that the time has come when we ought to begin introducing compulsion, especially in view of the fact that other prominent States like Baroda and Mysore have done so. In Mysore, after the introduction of compulsion, the percentage of attendance has considerably increased. Of course, I know that when compulsion is brought into force it will meet with great difficulty in the initial stage, and perhaps the exercise of a penal clause may be necessary. That should not deter us from going forward. Also, in so far as my

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present proposal is concerned, it is really a small beginning. We are only asking that these Municipalities which are going to be constituted should be given discretion to make bye-laws making elementary education compulsory within their local limits whenever as a matter of fact they can find the necessary funds and accommodation, so that national education, and this must be elementary education, might be placed as an ideal to be realised within a reasonable time. Much has been said about expediency. We also know what is expedient and what is not. So far as I am personally concerned, I certainly think that a few Municipalities may be safely entrusted with this power and the Government can watch how far they are able to carry it out successfully, and this will be perhaps an experiment which, if successful, may in course of time be extended by the Government to other Municipalities and other local areas also. I understand that this was tried in Bombay and was found successful. The desire for education, I may candidly say, is only confined to the higher classes and has certainly not permeated to lower orders to the extent to which it should be extended. So far as female education is concerned, I may submit that we are very backward indeed, though in comparison with other countries we may congratulate ourselves that the percentage is high. There is no merit in refusing to go forward. Statesmanship consists in going forward and removing the obstacles in the way of progress and not in refusing to go forward. This is a golden opportunity for taking a step in the right direction. Once the Bill is passed, it is not easy to revise or amend it. This Bill has come in perhaps after 25 years or so after the Committees were established. It is not easy, once the Bill is passed, to revise or amend it, though we may fancy that it is easy. Perhaps the Bill may be revised after another 25 or 30 years, and at that time much water would have flowed under the bridge."

Seconded by Mr. Govinda Menon.

Mr. Subba Aiyar:—

"I do not think it possible to accept the amendment. The question of compulsory education was sufficiently threshed out when a Bill was introduced into this Council some years ago. When the present Bill was introduced, the Mover of the amendment proposed this question when the principle of the Bill was discussed. Then also, I said that it was not possible to accept it. The question of compulsory education is a general question that has to be decided by the Government on its own merits. If the Government are of opinion that compulsory education is desirable or necessary, then there will have to be a separate legislation on the subject. Such a law may be made applicable to the Municipalities also. I therefore beg to oppose the amendment."

Mr. Parameswaran Pillai:—

"I submit that the only objection raised is that at a time in future, which I hope will not be long, Government will take up the question of compulsory education and introduce a Bill, when provision may be made for the whole country instead of making separate provision for separate Municipalities and local areas. We shall, of course, be thankful to the Government when that Bill is introduced. That in no way, so far as I can see, stands in the way of beginning compulsory education in these local areas, because, this will be a field which can be tried with profit and without much cost. The cost of this in these areas will be limited and the bodies that will take this up will not be Government bodies but non-official bodies, and therefore it is a field in which we may profitably experiment upon this, and if it is successful, that will be an additional reason for the Government to introduce compulsory education in all the areas in the State. It appears to me therefore that the objection raised to the amendment is no objection worth being replied to at all."

Mr. Parameswaran Pillai's amendment was put to the vote and lost.

SECTION 218.

Mr. Gopala Pillai moved that the words " by name or by virtue of office" be inserted after "person" in line 2.

Seconded by Mr. Govinda Menon.

Mr. Subba Aiyar opposed the motion.

The amendment was put to the vote and lost.

SECTION 222.

Mr. Gopala Pillai moved that the words "or for the slaughtering of animals intended for human food" and "and any utensil or vessel used for preparing, manufacturing or containing any such article" be inserted after "drugs" and "therein" in lines 6 and 7, respectively, of sub-section (1).

Seconded by Mr. Parameswaran Pillai.

Mr. Subba Aiyar:—

"These may be provided for in the bye-laws. The amendments are unnecessary."

The motion was withdrawn.

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Mr. Gopala Pillai moved that the words "or order the same to be forfeited to the Municipal Council" be inserted at the end of Clause (ii) of sub-section (2).

Seconded by Mr. Parameswaran Pillai.

Mr. Subba Aiyar opposed the motion, and it was put to the vote and lost.

Mr. Gopala Pillai moved that the following Proviso be inserted after Clause (iii) of sub-section (2):

"Provided that, in all cases of seizure of any article of human food, it may, with the consent of the owner or the person in whose possession it was found, be forthwith destroyed in such manner as to prevent its being used for human food or again exposed for sale; or,

(b) if such consent be not obtained, then, if such article be of a perishable nature and is in the opinion of the President, the Health Officer or a Councillor, diseased, unsound, unwholesome or unfit for human food, it may be destroyed as aforesaid."

Seconded by Mr. Govinda Menon.

Mr. Subba Aiyar opposed the motion, and it was put to the vote and lost.

The Council adjourned for lunch at 2-20 P. M. and re-assembled at 3 P. M.

SECTION 224.

Mr. Gopala Pillai, in moving that the Proviso to the Section be deleted, said :—

"The occasion on which this power is to be used is an exceptional one. Whenever any animal is slaughtered for human consumption, it is very necessary that the officers of the Municipality should have power to immediately go to the spot and ascertain the fact. I submit that this Proviso would promote delay in the officers of the Council in executing their functions, if they are to go to the President who may be somewhere, and come back with authorisation for entry into the place. By the time the officer returns after getting the power from the President, the slaughtered animal may have been removed to some other place. Therefore, in such cases, this Proviso would only raise obstruction in advancing the intention of this Bill."

Seconded by Mr. Govinda Menon.

Mr. Subba Aiyar :—

"This Proviso is intended to protect individual liberty and is not inserted with a view to curtail the powers of the Municipality. This Section deals with special cases where slaughter is expected, and in such cases the officer can get the authorisation from the President for seven days as provided for in the Proviso and enter upon and inspect the place."

The motion was put to the vote and lost.

SECTION 225.

Mr. Gopala Pillai moved that the words "or kept in contravention thereof" be added at the end of sub-section (1).

Seconded by Mr. Govinda Menon.

Mr. Subba Aiyar accepted the amendment, and it was carried.

SECTION 226.

Mr. Gopala Pillai moved that the words "after three hours' notice" in lines 2 and 3 of sub-section (1) be deleted.

Seconded by Mr. Govinda Menon.

Mr. Subba Aiyar opposed the motion, and it was put to the vote and lost.

SECTION 227.

Mr. Gopala Pillai moved that the words "by name or by virtue of office" be inserted after "persons" in line 1 of sub-section (1).

Seconded by Mr. Govinda Menon.

Mr. Subba Aiyar opposed the motion, and it was put to the vote and lost.

SECTION 234.

Mr. Subba Aiyar moved that the words "or any rule or bye-law made there-under" be inserted between the words "Regulation" and "by" in line 2.

Seconded by Mr. Mahadeva Aiyar.

Carried.

SECTION 236.

Mr. Subba Aiyar moved that the words "execute any work" and "execute the work" be substituted for the words "do any act" and "do the act" in lines 2 and 3, and lines 4 and 5, respectively, of sub-section (1).

Seconded by Mr. Chacko.

Carried.

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SECTION 238.

Mr. Gopala Pillai moved that the word "illegal" be inserted between the words "the" and "exercise" in line 3 of sub-section (1).

The motion fell through as it was not seconded.

SECTION 243.

Mr. Kuriyan moved that the words "Judge or" in line 1 of the Section be deleted.

Seconded by Mr. Subba Aiyar.

Carried.

SECTION 244.

Mr. Gopala Pillai moved that the following be inserted as Clause (*d*) of sub-section (7), re-numbering the subsequent Clause :—

"providing for sufficient warning of the approach of animals when taken through the streets after dark in order to prevent public danger."

Seconded by Mr. Parameswaran Pillai.

Mr. Subba Aiyar opposed the motion, on the ground that no specific mention need be made in the Section and that bye-laws may be framed for the purpose under sub-section (15).

The motion was put to the vote and lost.

SECTION 248.

Mr. Govinda Menon moved that the following be substituted for the Section :—

"If in the opinion of Our Government any resolution of a Municipal Council or an order of an officer appointed under Section 239 has not been legally passed or is in excess of the powers conferred by the law or the execution of which is likely to endanger public peace or order, Our Government may, by an order in writing stating the reasons therefor suspend the execution of such resolution or order, or suspend or cancel such resolution or order."

The motion fell through as it was not seconded.

SECTION 251.

Mr. Govinda Menon moved that the following be inserted for Section 251 :—

"251. (1) Every Municipality shall have prepared and laid before them, at a meeting specially convened for the purpose, on a day to be fixed by the rules of the Municipality, a complete account of the actual and expected receipts and expenditure of the current financial year together with a budget estimate of the income and expenditure of the Municipality for the financial year next following.

(2) The Municipality shall thereupon decide upon the appropriations and the ways and means contained in the budget of the financial year next following and the budget so sanctioned may be revised or altered from time to time as circumstances may render desirable at a special meeting called for that purpose.

(3) The Municipality shall at its first general meeting in Chingom, or, after audit of the past year's accounts, if such audit has not before that meeting taken place, pass the accounts of the past year.

(4) The Municipal accounts shall from time to time and once in every year at the least be audited by such agency as may be prescribed by the bye-laws of the Municipality, or if Government so direct, by a Government auditor.

(5) The auditor or auditors shall, for the purpose of their office have access to all the accounts and other records of the Municipality.

(6) The Municipality may pay from the Municipal fund such charges, if any, for the audit as may be agreed upon, or, if the auditor is a Government auditor, then such charges, if any, as may be prescribed by Government."

In moving the above amendment, Mr. Govinda Menon spoke as follows :—

"Sir,

This is one of the most important privileges which a Municipality is expected to possess. The functions of the Municipalities, as you yourself said yesterday, have been largely widened. A careful perusal of the foregoing Sections of the Bill will show that for every additional right that is proposed to be given to the Municipalities, provisions have been made in such a manner that it is almost impossible to see the Councils abuse their powers. Among the remaining Sections, this is the only important one materially affecting the provisions of the Bill accepted by the Council. My amendment is a reproduction of Section 169 of the Bombay Municipality Act. According to the proposed amendment, power is not given to the Municipal Councils to raise loans or to do anything except with the sanction of Government. Government have power to ask these Councils to levy a tax if they want and to withdraw it if they want. They have also power under other provisions of the Bill to ask the Councils to execute a work or to do any act, and if the Councils are not prepared to do it, they have power to insist upon the Councils to do it, and if even then the Councils do not do it, they have power to supersede the Councils creating their own establishment for the working of the Municipality for a certain

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specified period. In these circumstances, I request you to consider this amendment in a favourable light and at least grant this one right to the Municipalities so that they may have a free play in regard to their budget."

Mr. Gopala Pillai:—

"I beg to second the motion. I am also of opinion that Government sanction for the budget is not necessary. This is another of a series of amendments touching Government control, which had been placed before this Council for consideration and had been lost. I submit it was because the view taken by the Non-official Members was different from the view taken by the Government in the framing of this Bill. The composition of the Committees may be taken into consideration in discussing this subject. The major Councils consist, among others, of Dewan Peishkars, Division Assistants and High Court Vakils of standing. So far as the finances of these Committees are concerned, their responsibilities are heavy. In the case of the minor bodies, the Members may not be so superior in talents, but their responsibilities are not so heavy as those of the major Councils. The culture and talents displayed upon the administration of these institutions will also bear testimony to the fact that these Councils are past the stage of tutelage which has been assigned to them by the Government in the preparation of this Bill. We feel that the Councils have passed the stage of tutelage and have reached manhood, and our appeal to Government is to recognise the fact that the period of tutelage is gone and that they do not want Government to lead them by the hand. The policy of the Government in framing this measure should only be one of watching and supervising. As has been observed by competent authorities, that would conduce to the healthy growth of these institutions. It is possible and also probable that these institutions are liable to err, and I submit they should be permitted to err and profit by their mistakes. Infallibility cannot be claimed either by the greatest of statesmen or the highest of Judicial tribunals or the most perfect Government. That aspect has also to be borne in mind in the consideration of this Bill. The world has undergone marvellous changes during recent years. Men's angle of vision has considerably changed and society is now convulsing with new ideas and ideals. As these institutions are necessary elements in the development of society, these Councils ought to be allowed to grow without fetters being forged upon them by the Government. The framers of this Bill have not accepted this view. Now it is enough if the Government have stood by and watched the healthy progress of these institutions. There are sufficient safe-guards provided for in this Bill to check their acts and also to rectify mistakes. There is one provision by which rights and privileges may be taken away from those bodies which are not sufficiently mature. There is another provision by which remedy is provided by supersession of these Councils. And if these Councils are found to be incorrigible, there is another provision by which the Municipality itself may be annihilated by a single stroke of the pen. Under these circumstances, why should there be limitations at every turn? That is an aspect which we cannot understand. It was not any want of respect for the authority of Government or any intention to belittle the influence or superior intellectual powers of Government that prompted us to bring in the several amendments to the Bill now under discussion. Far be it from us. What we sincerely believe is that this measure which has been brought after 20 years from the passing of the existing Regulation has not been conceived by the framers of the Bill with that liberality which would characterise modern ideals of society. My submission is therefore that we have lost a good opportunity to educate people even at the risk of the commission of a few mistakes. It may take another long time before the present Bill is amended. I submit again that these limitations which have been introduced in this Bill by an over-cautious Government are unnecessary in the interest of the free growth of these institutions. I may also say that they will only hamper their free growth. I once again beseech you to take my assurance that we do not want to belittle the authority of Government. Let us be given more powers. We want Government only to think that we are manly and that we are in a better position to look after the affairs of the Municipal administration than we are assumed to be. Some of the Councillors are holding high appointments in the State, and some others, if they had entered service, would have been holding responsible posts under Government, and in the case of such Councillors these limitations are highly unnecessary. I therefore feel that I am right in supporting the amendment moved by Mr. Menon."

Mr. Subba Aiyar:—

"I regret I have to oppose the amendment. It is said that the Bill has been conceived in an illiberal spirit. I emphatically repudiate the suggestion. It is not necessary for me to enumerate the various provisions to show that they have been very liberal, as the Council has been considering the Bill for the last four days. So far as the amendment is concerned, I may say that the provision in the Bill is not intended in the least to curtail or restrict the powers of the Council. The Government have a responsibility in the matter. They have to realise that they should have the interests of the rate payers as much at heart as those of the Municipal Councillors. The object of the provision is that the Government should have an idea as to how the rate payers' money is to be spent. It is intended mainly for the information of the Government and not for interference with regard to details. The provision is similar to the one in the existing Regulation. Once the budget is sanctioned, the Council is at liberty to reappropriate from one head to another. I have been discussing the question with some who have been responsible for the administration of Municipalities, and I have been assured that no difficulty or inconvenience has been experienced by the provision in the existing Regulation. Much is said about the change in the angle of vision elsewhere. I do not know whether we are much concerned

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with it. Even there, under the Reform proposals, it is necessary that the Government should see that a minimum balance is maintained by every Municipality. The provision is intended to enable the Government to see that the expenditure proposed is within the means of possibility. I do not think that the provision is likely to interfere with the Municipal Councils in taking the initiative in any matter or their spending the amount in any matter that they consider best. No strict control over the budget is intended to be exercised. I therefore beg to oppose the amendment."

Mr. Parameswaran Pillai :—

"In supporting the amendment, I would submit that this is an interference on the part of the Government with the Municipal administration for which no case has been made out by my friend the learned Mover of the Bill. He has told us that the Bill has been conceived in a liberal spirit. It may be so in his own estimation. At any rate, after having sat for four days during the deliberations of this Council over the several provisions of this Bill, it appears to me that after all, whatever may be the spirit or motive which has prompted the Mover and which I do not dispute, the result has not been what was intended. Much has been said about the interests of the rate payers. Of course, we understand what is meant by the interests of ratepayers. We are also assured that the Government have the interests of the rate payers at heart. With due respect to that intention, I may say that the ratepayers' interests are also quite safe in the hands of the Municipal Council, the majority of whose Members are elected by themselves. And if I may be permitted to say, nobody can take greater care of the interests of the ratepayers than their own elected representatives. At the time when this Bill was introduced into this Council, I was one of those who supported the Bill, and at that time I said that so far as the individual provisions were concerned, there were real defects, but the defects were such as could be cured at the time when the Bill would be read in Council. I had also the privilege of having been present as a Member at the Select Committee meeting in the earlier stages. Then I pointed out the difficulty of working some of the provisions of the Bill as no distinction was made between the major and the minor Committees, and then we were assured that Section 8 was quite sufficient and that the general provisions of the Bill were intended only to apply to those Municipalities to which they might be applied. In this view, we entertained great hopes at the time when the Bill was introduced, but we are sorry to say that, after three days' deliberations, we have been really disappointed in the provisions of the Bill. The net result will be, as I conceive, to invest Government with greater powers in the name of the Municipalities, to tax the Municipalities, say, to a larger extent, and control the actions of the Municipalities, perhaps to a larger extent. Wider powers have been given in one respect, but the Sections when read afterwards run 'with the previous sanction or approval of Government'. This I submit is certainly not giving the Municipalities any wider powers that Government might have intended to give. We very much regret that, at the fag end of 1918, such a reactionary measure, and I may, if permitted, even say, unprogressive measure, should be passed through this Legislative Council."

President :—"I have been closely following you, and I have no objection to your making general observations. But are they very pertinent to the particular amendment that is before us? Your remarks cover the whole scheme of the Bill. Are these relevant to the particular Section with which we are now dealing? I do not mean to say that they are not relevant in a remote vapoury way. If so, anything may be said to be relevant. I shall be glad if you confine your observations to the amendment with which we are now dealing."

Mr. Parameswaran Pillai :—"The budget is the most important and vital question concerning the Municipalities."

President :—"You may have noticed during the last four days that general observations are made when a particular amendment is discussed. I am not specially referring to you. These observations are not quite applicable to the amendment under discussion. I do not want to interfere, but I think it necessary that you should confine your observations to the particular point now under discussion. Otherwise there will be no end to these discussions."

Mr. Parameswaran Pillai :—

"Yes, Sir. As I said, the budget is a matter of vital importance to the Municipalities, and that is a matter in connection with which I had to refer to the general provisions of the Bill in order to invite particular attention to this portion of it. I may say that it is of very great importance and absolutely essential in the proper working of these Councils, and that, in order to bring home to them their real responsibility in the administration of the Municipalities, they should be given much wider sphere of action in the framing of their budgets and also in the expenditure of their money. Of course, the Government should have control. The Government have provided for general control, for inspection of books and for giving general guidance. I submit that the Municipal Councils must be given much wider powers and much wider sphere of action than are sought to be given under the provisions of this Bill. I have therefore very great pleasure in supporting the amendment proposed by Mr. Govinda Menon."

Mr. Govinda Menon :—

"I have nothing more to say. I only request that Government will grant this concession at least."

Mr. Govinda Menon's amendment was put to the vote and lost.

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SECTION 253.

Mr. Govinda Menon moved that the words "dissolved, and order a reconstitution of the Municipality by fresh election and nomination of all the Councillors of the Council" be substituted for the words "superseded, for such time as they may think fit" in lines 6 and 7 of sub-section (1).

The motion fell through as it was not seconded.

Mr. Subba Aiyar moved that the word "superseding" be substituted for the word "suspending" in line 1 of the Proviso to sub-section (1).

Seconded by Mr. Mahadeva Aiyar.

Carried.

SECTION 260.

Mr. Gopala Pillai moved that the words "to release on bail any person arrested for doing an act in contravention to the provisions of this Regulation" be inserted after the word "Municipality" in line 7.

Seconded by Mr. Govinda Menon.

Mr. Subba Aiyar accepted the principle of the amendment but suggested that the following separate Clause be inserted after the Section:—

"The Government may, by a similar Notification, authorise any officer of the Municipality to release on bail any person so arrested."

The Council accepted Mr. Subba Aiyar's suggestion.

SCHEDULE B.

Mr. Kuriyan moved that the words "Traction engine.....Rs. 40" be inserted as the first item in the Schedule.

Mr. Subba Aiyar accepted the amendment, and it was carried.

SCHEDULE C.

Mr. Kuriyan moved that the words "Traction engine.....Rs. 3" be inserted as the first item in the Schedule.

Mr. Subba Aiyar accepted the amendment, and it was carried.

SCHEDULE D.

Mr. Gopala Pillai moved that the word "President" be substituted for the word "Chairman" in line 2 of the form.

Mr. Subba Aiyar accepted the amendment, and it was carried.

The consideration of the Bill being over, the President spoke as follows:—

"Gentlemen,

Allow me to make a few observations in regard to the important legislative measure which we are now passing through this Council. You are all acquainted with the history of local self-government in Travancore. At the time of the accession of His Highness the Maha Raja to the *Musnad* thirty-four years ago, the only permanent conservancy establishment in the State was the one maintained at Trivandrum. One of the earliest beneficial acts of His Highness was to extend the system of conservancy to the four important mofussil towns, Kottayam, Alleupey, Quilon and Nagercoil, the monthly Government grants to these Towns being fixed, and the administration of the grants, together with what might be received by way of local contribution, being entrusted to Committees consisting of an Official President and two Non-official Members in each case. This is the beginning of Municipal administration in the State. I do not propose to take you through the details of Regulation II of 1069, which was the first legislative enactment on the subject, or of Regulation III of 1076, to which that enactment ultimately gave place. It is worthy of note that none of the Town Improvement Committees constituted under these Regulations, chose, for a long time, to take advantage of the statutory powers conferred on them to tax the inhabitants, until they were compelled to do so by Regulation V of 1085. Since the passing of this last enactment, the expansion of Municipal activities has been alike rapid and remarkable.

At present, there is a strong and substantial non-official majority in every one of the nineteen Committees in the State, and the elective principle, so essential to the vitality of local administration, has been recognised and given effect to in as many as fourteen of them. All through my official career in Travancore, I have been watching the progress of these representative institutions with intense interest, and of late been endeavouring, gradually, to broad-base their foundations. Non-official Chairmen now preside over the Committees of Alleppey, Mavelikara and Nagercoil; the number of Members has increased in several Committees; adequate safe-guards exist for the representation of minorities; and official control over local funds is getting relaxed. Nevertheless it struck His Highness' Government that, unless the law on the subject was substantially modified, there would be no possibility of increasing the usefulness of these institutions, which, as they stand at present, enjoy only certain limited powers in matters relating to sanitation. In British India, as early as 1870, Lord Mayo's Government, in a Resolution, dwelt on the need for local interest and supervision being brought to bear on the

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management of funds devoted to education, sanitation, medical charity and local public works. This was followed by the epoch-making Resolution of Lord Ripon's Government dated the 18th May 1882. Coming to later times, I shall merely refer to the liberal recommendations of the Royal Commission on Decentralisation on the subject in their report dated the 25th February 1909 and to the Resolution of Lord Hardinge's Government dated the 28th April 1915, accepting those recommendations in general, and advising local Governments to give effect to them as far as practicable. Keeping these facts in view, His Highness' Government realised that it would not do for Travancore to stand still, and considered it imperative that legislative sanction should be taken for expanding the sphere of its Municipal activities.

Government accordingly directed the Additional Head Sirkar Vakil, Mr. Subba Aiyar, to introduce a comprehensive and up-to-date Municipal Bill in the Council, and the Bill which he introduced and which has now passed through all stages except the final reading, is, to my mind, a valuable piece of legislation, conferring enhanced powers on Municipalities in a variety of directions and calculated to be of immense benefit to the urban population of the State. It is unnecessary for me to dwell on its salient features. It has been recognised that local self-government is a conscious process of administrative devolution and political education, and the Bill has been so framed as to achieve this two-fold object. Its original provisions, in themselves liberal, have been further liberalised at the Select Committee stage, with the result that a real and substantial advance has been made in the direction of local self-government. The suggestions made by the several Town Improvement Committees, and by the Municipal Conference at its sittings in 1917 and 1918, have been carefully considered and adopted as far as circumstances would permit. The number of elected Non-official Councillors hereafter will be *not less* than one-half—it may be more—and that of nominated Officials *not more than* one-fourth—it may be less. I wish to state on behalf of Government that nominated seats are reserved solely with a view to safeguard the interests of unrepresented minorities and to make provision for expert assistance. In the constitution of Municipal Councils, in the conduct of business in them, and in the obligatory and discretionary powers with which they are proposed to be invested, the sole principle kept in view is to entrust the people more and more with the management of their own affairs. I am aware that in some instances Government have not been able to accept the suggestions of Non-official Members. They will, however, I feel confident, realise that efficiency in matters of Municipal administration cannot altogether be neglected, and I assure them that the only powers taken by the Government under this Bill are those that are calculated to ensure such efficiency. "To insist on the discharge of certain functions, to prevent an undue extension of others, and to protect the interests of individuals against encroachments by local authorities" have been admitted to be clear duties falling within the province of the State. In the words of John Stuart Mill, "what is wanted is the means of making ignorance aware of itself, and able to profit by knowledge.....When we desire to have a good school, we do not eliminate the teacher". Government recognise the fact that Municipalities cannot make real progress if they are constantly kept in financial leading-strings and that Municipal bodies could attain adequate financial responsibility only by the exercise of such powers and by being obliged to bear the consequence of their errors The only check that will therefore be imposed in practice in this respect will be the maintenance of a minimum standing balance. It would, in this connection, be perhaps well to remember that the average incidence of Municipal taxation per head of Municipal population in British India for 1911–1912, the latest year for which figures are available, was Rs. 2·95, while that in Travancore for 1916–1917 was only Re. 0·46. A wide field is thus open to Municipal bodies for local taxation, and I feel sure that, in the light of the enlarged powers now conferred, the ratepayers will not grudge to bear the correlative burdens, especially when these directly serve to contribute to their own comfort and convenience. To those Members of the Council who are anxious that some functions which now fall under the discretionary category should be obligatorily imposed on Municipalities, my counsel is patience. If, by the test of a few years' experience, it is seen that the obligatory functions now vested in them, several of which are altogether new, such as drainage and elementary education, are satisfactorily discharged, there will be little difficulty in amending the Regulation and imposing additional functions on them. I avail myself of this opportunity to assure the Council, and through the Council the public, that the control which the Government will henceforth exercise over Municipalities will be more from without than from within—will be more advisory than mandatory—and that such exercise is necessary in the interests of the ratepayers themselves. It is hoped that the liberal provisions of the present Bill will go a long way towards making the ratepayers realise the importance of administering local affairs and rendering them increasingly fit to handle problems of larger importance. One of our most distinguished countrymen, Sir Satyendra Prasanna Sinha, said on a memorable occasion "Local self-government, supplemented by the spread of the co-operative movement, will gradually solve many of our most difficult problems, such as primary education, small industries, improved agriculture, indebtedness of the peasantry, rural sanitation, and so forth, and to this we must devote our best energies and attention in the immediate future, bearing in mind that we have got to build from the village upwards." These are words of wisdom and I commend them to all patriotic Travancoreans.

Gentlemen, this has been a comparatively long session, and I thank you all for the patience and industry which you have brought to bear on the consideration of this important Bill. Mr. Subba Aiyar has bestowed much care and attention on the preparation of the Bill, and the

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hanks of the Council are specially due to him. I conclude with the hope that this legislative measure, which is fraught with infinite possibilities of benefit to Travancore, will be received by the loyal subjects of His Highness the Maha Raja in the spirit in which it is framed, and that no pains will be spared by Municipal Councils to make the most of the great opportunities which it affords for promoting public good."

Mr. Subba Aiyar then moved that the Bill, as settled by the Council, be read again on a future day of which notice should be given.

Seconded by Mr. Mahadeva Aiyar.

Carried.

The Council adjourned at 5-15 P. M.

M. KRISHNAN NAIR,
President.

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